

110TH CONGRESS
1ST SESSION

H. R. 4128

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2007

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Criminal Code Mod-
5 ernization and Simplification Act of 2007”.

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

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

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

| “Chapter | Section |
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| “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 |
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| “19. Organized crime | 501 |
| “21. Arson, firearms, explosives, and weapons crimes | 571 |
| “23. Theft and related crimes | 641 |
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| “27. Crimes related to Federal Government respon- sibilities | 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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3 **“CHAPTER 1—DEFINITIONS**

“Sec.

“1. Definitions for title.

4 **“§ 1. Definitions for title**

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

7 “‘The term **‘agency’** means any department, inde-
 8 pendent establishment, commission, administration, author-
 9 ity, board, or bureau of the United States or any corpora-
 10 tion in which the United States has a proprietary interest
 11 unless the context shows that such term was intended to
 12 be used in a more limited sense.

13 “‘The term **‘bodily injury’** means—

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

15 “‘(B) physical pain;

16 “‘(C) illness;

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

19 “‘(E) any other injury to the body, no matter how
 20 temporary.

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

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

7 “‘The term **‘crime of violence’** means—

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

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

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

20 “‘The term **‘facility of interstate or foreign com-
21 merce’** includes a means of transportation and commu-
22 nication in or affecting interstate or foreign commerce;

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

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

26 “(B) section 504, 651, 653, 772, 782, 801, 803, or
27 1017 if the violation relates to a health care benefit
28 program.

29 “‘The term **‘financial institution’** means—

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

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

34 “(C) a credit union with accounts insured by the Na-
35 tional Credit Union Administration;

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

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

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

6 “(G) the Securities Investor Protection Corporation;

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

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

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

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

19 “The term ‘**health care benefit program**’ means
20 any public or private plan or contract, affecting commerce,
21 under which any medical benefit, item, or service is pro-
22 vided to any individual, and includes any individual or enti-
23 ty who is providing a medical benefit, item, or service for
24 which payment may be made under the plan or contract.

25 “The term ‘**interstate commerce**’ means commerce
26 between two States.

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

30 “The term ‘**national bank**’ is synonymous with ‘**na-
31 tional banking association**’.

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

35 “The term ‘**organization**’ means a person other than
36 an individual.

1 “‘The term **‘person’** and the term **‘whoever’**, unless
2 the context otherwise requires, include any entity capable
3 of holding a legal or beneficial interest in property as well
4 as an individual, and where used as a victim of an offense,
5 includes a government.

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

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

16 “‘The term **‘serious bodily injury’** means—

17 “(A) bodily injury which involves—

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

20 “(ii) extreme physical pain;

21 “(iii) protracted and obvious disfigurement; or

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

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

28 “‘The term **‘special maritime and territorial ju-
29 risdiction of the United States’** means the fol-
30 lowing:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “‘The term ‘**substantial bodily injury**’ means bod-
31 ily injury which involves—

32 “(A) a temporary but substantial disfigurement; or

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

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

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

8 **“CHAPTER 3—CRIMINAL RESPONSIBILITY**

“Sec.

“2. Principals.

“3. Accessory after the fact.

“4. Misprision of felony.

“5. Conspiracy.

“6. Attempt.

“7. Solicitation to commit a crime of violence.

9 **“§ 2. Principals**

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

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

16 **“§ 3. Accessory after the fact**

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

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

30 **“§ 4. Misprision of felony**

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

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

4 **“§ 5. Conspiracy**

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

10 **“§ 6. Attempt**

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

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

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

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

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

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

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

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

| | |
|--|-------------|
| “Subchapter | Sec. |
| “A. Defenses | 21 |
| “B. General rules pertaining to criminal offenses | 31 |

6 **“SUBCHAPTER A—DEFENSES**

“Sec.

“21. Affirmative defenses.

“22. Insanity defense.

7 **“§21. Affirmative defenses**

8 “If a provision of law provides an affirmative defense to a
 9 prosecution for an offense, the defendant must prove the ele-
 10 ments of that defense by a preponderance of the evidence.

11 **“§ 22. Insanity defense**

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

19 “(b) BURDEN OF PROOF.—The defendant has the burden of
 20 proving the defense of insanity by clear and convincing evi-
 21 dence.

22 **“SUBCHAPTER B—GENERAL RULES PERTAINING TO**
 23 **CRIMINAL OFFENSES**

“Sec.

“31. Non-preemption.

24 **“§ 31. Non-preemption**

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

1 **“CHAPTER 10—VIOLENT CRIMES AGAINST**
 2 **PERSONS**

| “Subchapter | Sec. |
|---|-------------|
| “A. Homicide | 101 |
| “B. Assault and related offenses | 111 |
| “C. Kidnapping | 121 |
| “D. Threats against specially protected persons | 131 |
| “E. Definitions and general provisions for sub- chapters A through D | 136 |
| “F. Robbery, extortion, and threats | 141 |
| “G. Extortionate credit transactions | 155 |
| “H. Domestic violence | 161 |
| “I. Protection of unborn children | 171 |

3 **“SUBCHAPTER A—HOMICIDE**

“Sec.

- “101. Homicide.
- “102. Federally punishable homicides.
- “103. Penalties for murders punishable under section 102; attempts and
conspiracies.
- “104. Penalties for manslaughters punishable under section 102; attempts.
- “105. Misconduct or neglect of ship officers.

4 **“§ 101. Homicide**

5 “Unless otherwise provided by Act of Congress, if a Federal
 6 law makes the killing of a human being an offense, the fol-
 7 lowing categories shall apply with respect to that offense:

8 “(1) MURDER.—

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

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

23 “(i) the term ‘assault’ means conduct that consists
 24 an assault as described in section 111;

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

4 “(iii) the term ‘child abuse’ means intentionally caus-
5 ing death or serious bodily injury to a child;

6 “(iv) the term ‘pattern or practice of assault or tor-
7 ture’ means assault or torture engaged in on at least
8 two occasions; and

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

13 “(2) MANSLAUGHTER.—Manslaughter is the unlawful killing
14 of a human being without malice. It is of two kinds:

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

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

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

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

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

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

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

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

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

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

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

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

36 “(A) the President of the United States, the Presi-
37 dent-elect, the Vice President, or, if there is no Vice

1 President, the officer next in the order of succession to
 2 the Office of the President of the United States, the
 3 Vice President-elect, or any person who is acting as
 4 President under the Constitution and laws of the
 5 United States;

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

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

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

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

18 **“§ 103. Penalties for murders punishable under**
 19 **section 102; attempts and conspiracies**

20 “(a) MURDER.—A murder that is an offense under section
 21 102 is punishable by—

22 “(1) death or imprisonment for life for first degree mur-
 23 der; and

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

26 “(b) ATTEMPTED MURDER.—

27 “(1) GENERALLY.—Except as provided in paragraph (2),
 28 whoever attempts to commit a murder that is an offense
 29 under section 102 shall be imprisoned not more than 20
 30 years.

31 “(2) SPECIAL RULE RELATING TO CONGRESSIONAL, CAB-
 32 INET, AND SUPREME COURT ASSASSINATIONS AND PRESI-
 33 DENTIAL AND PRESIDENTIAL STAFF ASSASSINATIONS.—If
 34 the offense attempted is against an individual described in
 35 paragraph (9) or (10) of section 102 the penalty is impris-
 36 onment for any term of years or for life.

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

10 **“§ 104. Penalties for manslaughters punishable**
 11 **under section 102; attempts**

12 “(a) PENALTY FOR MANSLAUGHTER.—A manslaughter that
 13 is an offense under section 102 is punishable by—

14 “(1) imprisonment for not more than ten years, for vol-
 15 untary manslaughter; and

16 “(2) imprisonment for not more than six years, for invol-
 17 untary manslaughter.

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

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

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

29 “(b) OWNERS.—When the owner or charterer of any steam-
 30 boat or vessel is a corporation, any executive officer of such
 31 corporation, for the time being actually charged with the con-
 32 trol and management of the operation, equipment, or naviga-
 33 tion of such steamboat or vessel, who has knowingly and will-
 34 fully caused or allowed such fraud, neglect, connivance, mis-
 35 conduct, or violation of law, by which the life of any person is
 36 destroyed, shall be imprisoned not more than ten years.

1 “SUBCHAPTER B—ASSAULT AND RELATED
2 OFFENSES

“Sec.

“111. Assault.

“112. Individuals federally protected from assault.

“113. Interference with Federal officers and employees.

“114. Domestic assault by an habitual offender.

3 **“§ 111. Assault**

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

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

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

14 “(3) Assault with a dangerous weapon, with intent to do
15 bodily harm, and without just cause or excuse, by imprison-
16 ment for not more than ten years.

17 “(4) Assault resulting in serious bodily injury, by impris-
18 onment for not more than ten years.

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

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

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

28 **“§ 112. Individuals federally protected from as-**
29 **sault**

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

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

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

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

13 “(a) IN GENERAL.—Any person who commits a domestic as-
 14 sault within the special maritime and territorial jurisdiction of
 15 the United States or Indian country and who has a final con-
 16 viction on at least 2 separate prior occasions in Federal, State,
 17 or Indian tribal court proceedings for offenses that would be,
 18 if subject to Federal jurisdiction—

19 “(1) any assault, sexual abuse, or serious violent felony
 20 against a spouse or intimate partner; or

21 “(2) an offense under chapter 110A,

22 shall be imprisoned for a term of not more than 5 years, but
 23 if substantial bodily injury results from the offense under this
 24 section, the offender shall be imprisoned for a term of not more
 25 than 10 years.

26 “(b) DOMESTIC ASSAULT DEFINED.—In this section, the
 27 term ‘domestic assault’ means an assault committed by a cur-
 28 rent or former spouse, parent, child, or guardian of the victim,
 29 by a person with whom the victim shares a child in common,
 30 by a person who is cohabitating with or has cohabitated with
 31 the victim as a spouse, parent, child, or guardian, or by a per-
 32 son similarly situated to a spouse, parent, child, or guardian
 33 of the victim.

34 **“SUBCHAPTER C—KIDNAPPING**

“Sec.

“121. Kidnapping.

“122. Ransom money.

“123. Hostage taking.

“124. International parental kidnapping.

1 **“§ 121. Kidnapping**

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

7 “(b) CIRCUMSTANCES REQUIRED.—Subsection (a) applies
8 if—

9 “(1) the victim or the victim’s body is transported in
10 interstate or foreign commerce, regardless of whether the
11 victim was alive when transported across a State boundary
12 if the victim was alive when the transportation began; or

13 “(2) the victim is an individual whose killing is a Federal
14 offense under section 102.

15 “(c) PRESUMPTION.—With respect to a violation of sub-
16 section (a), based on the circumstance described in subsection
17 (b)(1), the failure to release the victim within 24 hours after
18 the victim was kidnapped creates a rebuttable presumption that
19 the victim has been transported in interstate or foreign com-
20 merce. However, the fact that the presumption under this sec-
21 tion has not yet taken effect does not preclude a Federal inves-
22 tigation of a possible violation of this section.

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

30 “(e) ATTEMPTS.—Whoever attempts to violate subsection (a)
31 shall be punished by imprisonment for not more than 20 years
32 but if the individual whose kidnapping was attempted is de-
33 scribed in paragraph (9) or (10) of section 102, the offender
34 shall be imprisoned for any term of years or for life.

1 “(f) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING
2 CHILDREN.—If the victim of an offense under this section is
3 a child and the offender—

4 “(1) is not a child; and

5 “(2) is not—

6 “(A) a parent;

7 “(B) a grandparent;

8 “(C) a brother;

9 “(D) a sister;

10 “(E) an aunt;

11 “(F) an uncle; or

12 “(G) an individual having legal custody of the victim;
13 the sentence under this section for such offense shall include
14 imprisonment for not less than 20 years.

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

19 **“§ 122. Ransom money**

20 “(a) FEDERAL.—Whoever receives, possesses, or disposes of
21 any money or other property, or any portion thereof, which has
22 at any time been delivered as ransom or reward in connection
23 with a violation of section 121, knowing it to be such, shall be
24 imprisoned not more than ten years.

25 “(b) STATE.—Whoever transports, transmits, or transfers
26 in interstate or foreign commerce any proceeds of a kidnapping
27 punishable under State law by imprisonment for more than 1
28 year, or receives, possesses, conceals, or disposes of any such
29 proceeds after they have crossed a State or United States
30 boundary, knowing the proceeds to have been unlawfully ob-
31 tained, shall be imprisoned not more than 10 years.

32 **“§ 123. Hostage taking**

33 “(a) OFFENSE.—Except as provided in subsection (b) of this
34 section, whoever, whether inside or outside the United States,
35 seizes or detains and threatens to kill, to injure, or to continue
36 to detain another person in order to compel a third person or
37 a governmental organization to do or abstain from doing any

1 act as an explicit or implicit condition for the release of the
 2 person detained, or attempts or conspires to do so, shall be
 3 punished by imprisonment for any term of years or for life and,
 4 if the death of any person results, shall be punished by death
 5 or life imprisonment.

6 “(b) EXCLUSIONS.—

7 “(1) It is not an offense under this section if the conduct
 8 required for the offense occurred outside the United States
 9 unless—

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

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

13 “(C) the governmental organization sought to be
 14 compelled is the Government of the United States.

15 “(2) It is not an offense under this section if the conduct
 16 required for the offense occurred inside the United States,
 17 each alleged offender and each person seized or detained
 18 are nationals of the United States, and each alleged of-
 19 fender is found in the United States, unless the govern-
 20 mental organization sought to be compelled is the Govern-
 21 ment of the United States.

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

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

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

29 “(1) the term ‘child’ means a person who has not at-
 30 tained the age of 16 years; and

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

33 “(A) whether joint or sole (and includes visiting
 34 rights); and

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

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

3 “(1) the defendant acted within the provisions of a valid
4 court order granting the defendant legal custody or visita-
5 tion rights and that order was obtained pursuant to the
6 Uniform Child Custody Jurisdiction Act or the Uniform
7 Child Custody Jurisdiction and Enforcement Act and was
8 in effect at the time of the offense;

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

11 “(3) the defendant had physical custody of the child pur-
12 suant to a court order granting legal custody or visitation
13 rights and failed to return the child as a result of cir-
14 cumstances beyond the defendant’s control, and the defend-
15 ant notified or made reasonable attempts to notify the
16 other parent or lawful custodian of the child of such cir-
17 cumstances within 24 hours after the visitation period had
18 expired and returned the child as soon as possible.

19 “(d) EFFECT ON HAGUE CONVENTION.—This section does
20 not limit The Hague Convention on the Civil Aspects of Inter-
21 national Parental Child Abduction, done at The Hague on Oc-
22 tober 25, 1980.

23 “SUBCHAPTER D—THREATS AGAINST SPECIALLY
24 PROTECTED PERSONS

“Sec.

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

25 “§ 131. Threats against officers or employees of
26 the United States, and other specially pro-
27 tected persons

28 “Whoever threatens to kill, kidnap, or inflict bodily harm
29 upon—

30 “(1) an individual described in paragraph (2) or (3) of
31 section 102 on account of the performance of official du-
32 ties;

33 “(2) an individual described in paragraph (4), (7), or (8)
34 of section 102;

- 1 “(3) a former President of the United States;
- 2 “(4) a member of the immediate family of the President,
3 the President-elect, the Vice President, or the Vice Presi-
4 dent-elect;
- 5 “(5) a major candidate for the office of President or Vice
6 President, or a member of the immediate family of such
7 candidate; or
- 8 “(6) a person protected by the Secret Service under sec-
9 tion 3056(a)(6);
- 10 shall be imprisoned not more than 10 years.

11 “SUBCHAPTER E—DEFINITIONS AND GENERAL
12 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.

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

14 “Unless otherwise provided, in subchapters A through D, the
15 following definitions apply:

16 “(1) The term ‘family’ with respect to an individual,
17 means—

18 “(A) a spouse, parent, brother or sister, child, or
19 person to whom the individual stands in loco parentis;
20 or

21 “(B) any other person living in the individual’s
22 household and related to the individual by blood or
23 marriage.

24 “(2) The term ‘foreign government’ means the govern-
25 ment of a foreign country, irrespective of recognition by the
26 United States.

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

28 “(A) a Chief of State or the political equivalent,
29 President, Vice President, Prime Minister, Amba-
30 sador, Foreign Minister, or other officer of Cabinet
31 rank or above of a foreign government or the chief ex-
32 ecutive officer of an international organization, or any
33 person who has previously served in such capacity, and

1 any member of his family, while in the United States;
2 or

3 “(B) any person of a foreign nationality who is duly
4 notified to the United States as an officer or employee
5 of a foreign government or international organization,
6 and who is in the United States on official business,
7 and any member of that person’s family whose presence
8 in the United States is in connection with the presence
9 of such officer or employee.

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

12 “(A) a Chief of State or the political equivalent, head
13 of government, or Foreign Minister whenever such per-
14 son is in a country other than his own and any member
15 of that individual’s family accompanying that indi-
16 vidual; or

17 “(B) any other representative, officer, employee, or
18 agent of the United States Government, a foreign gov-
19 ernment, or international organization who at the time
20 and place concerned is entitled pursuant to inter-
21 national law to special protection against attack upon
22 his person, freedom, or dignity, and any member of
23 that individual’s family then forming part of his house-
24 hold.

25 “(5) The term ‘international organization’ means a pub-
26 lic international organization designated as such pursuant
27 to section 1 of the International Organizations Immunities
28 Act (22 U.S.C. 288) or a public organization created pur-
29 suant to treaty or other agreement under international law
30 as an instrument through or by which two or more foreign
31 governments engage in some aspect of their conduct of
32 international affairs.

33 “(6) The term ‘official guest’ means a citizen or national
34 of a foreign country present in the United States as an of-
35 ficial guest of the Government of the United States pursu-
36 ant to designation as such by the Secretary of State.

1 “(7) The terms ‘President-elect’ and ‘Vice President-
2 elect’ mean those persons who are the apparently successful
3 candidates for the offices of President and Vice President,
4 respectively, as ascertained from the result of the general
5 elections held to determine the electors of President and
6 Vice President under sections 1 and 2 of title 3.

7 **“§ 137. Special rules relating to offenses against
8 certain types of victims**

9 “(a) EXTRATERRITORIAL JURISDICTION.—

10 “(1) PRESIDENTIAL AND CONGRESSIONAL VICTIMS.—

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

14 “(2) INTERNATIONALLY PROTECTED PERSONS.—There is
15 extraterritorial jurisdiction over an offense under any of sub-
16 chapters A through D the victim of which is an internationally
17 protected person outside the United States, if—

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

20 “(B) an offender is a national of the United States;
21 or

22 “(C) an offender is afterwards found in the United
23 States.

24 “(b) USE OF MILITARY WITH RESPECT TO CERTAIN OF-
25 FENSES.—With respect to an offense under this chapter, or an
26 attempt or conspiracy to commit such an offense, if an element
27 of the offense is that the victim be individual described in para-
28 graph (9) or (10) of section 102, a foreign official, an inter-
29 nationally protected person, or an official guest, the Attorney
30 General may request assistance from any Federal, State, or
31 local agency, including the Army, Navy, and Air Force.

32 “(c) SPECIAL PROVISIONS RELATING TO OFFENSES INVOLV-
33 ING PRESIDENTIAL OR CONGRESSIONAL VICTIMS.—With re-
34 spect to an offense under paragraph (9) or (10) of section
35 102—

36 “(1) if Federal investigative or prosecutive jurisdiction is
37 asserted, that assertion suspends the exercise of jurisdic-

1 tion by a State or local authority, under any applicable
2 State or local law, until Federal action is terminated;

3 “(2) the Federal Bureau of Investigation shall have in-
4 vestigative authority; and

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

8 “(d) APPROVAL REQUIRED FOR PROSECUTIONS RELATING
9 TO UNITED STATES NATIONALS KILLED OVERSEAS.—

10 “(1) APPROVAL REQUIRED.—No prosecution may be in-
11 stituted against any person under section 101(a)(5) except
12 upon the written approval of the Attorney General, the
13 Deputy Attorney General, or an Assistant Attorney Gen-
14 eral, which function of approving prosecutions may not be
15 delegated. No prosecution shall be approved if prosecution
16 has been previously undertaken by a foreign country for the
17 same conduct.

18 “(2) BASIS FOR APPROVAL.—No prosecution shall be ap-
19 proved under this subsection unless the Attorney General,
20 in consultation with the Secretary of State, determines that
21 the conduct took place in a country in which the person is
22 no longer present, and the country lacks the ability to law-
23 fully secure the person’s return. A determination by the At-
24 torney General under this paragraph is not subject to judi-
25 cial review.

26 “(e) CERTIFICATION OF TERRORISM RELATION REQUIRED
27 FOR CERTAIN PROSECUTIONS RELATING TO KILLING OR AT-
28 TACKING NATIONALS OF THE UNITED STATES ABROAD.—No
29 prosecution for any offense described in section 102(11) or 116
30 shall be undertaken by the United States except on written cer-
31 tification of the Attorney General or the highest ranking subor-
32 dinate of the Attorney General with responsibility for criminal
33 prosecutions that, in the judgment of the certifying official,
34 such offense was intended to coerce, intimidate, or retaliate
35 against a government or a civilian population.

1 “SUBCHAPTER F—ROBBERY, EXTORTION, AND
2 RELATED THREATS

“Sec.

“141. Robbery in special maritime and territorial jurisdiction.

“142. Robbery of personal property of United States.

“143. Bank robbery and incidental crimes.

“144. Communication of ransom demands and other threatening commu-
nications in or affecting commerce.

“145. Extortion by officers or employees of the United States.

“146. Receiving the proceeds of extortion.

3 **“§ 141. Robbery in special maritime and terri-
4 torial jurisdiction**

5 “Whoever, within the special maritime and territorial jurisdic-
6 tion of the United States, by force and violence, or by in-
7 timidation, takes or attempts to take from the person or pres-
8 ence of another anything of value, shall be imprisoned not more
9 than 15 years.

10 **“§ 142. Robbery of personal property of United
11 States**

12 “Whoever robs or attempts to rob another of any kind or de-
13 scription of personal property belonging to the United States,
14 shall be imprisoned not more than 15 years.

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

16 “(a) AGGRAVATED OFFENSE.—Whoever—

17 “(1) by force and violence, or by intimidation, takes, or
18 attempts to take, from the person or presence of another,
19 or obtains or attempts to obtain by extortion any property
20 or money or any other thing of value belonging to, or in
21 the care, custody, control, management, or possession of,
22 any bank, credit union, or any savings and loan association;
23 or

24 “(2) enters or attempts to enter any bank, credit union,
25 or any savings and loan association, or any building used
26 in whole or in part as a bank, credit union, or as a savings
27 and loan association, with intent to commit in such bank,
28 credit union, or in such savings and loan association, or
29 building, or part thereof, so used, any felony affecting such
30 bank, credit union, or such savings and loan association

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

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

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

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

25 “(d) ASSAULTING PERSON OR PLACING LIFE IN JEOP-
26 ARDY.—Whoever, in committing, or in attempting to commit,
27 any offense defined in subsections (a) through (c), assaults any
28 person, or puts in jeopardy the life of any person by the use
29 of a dangerous weapon or device, shall be imprisoned not more
30 than 25 years.

31 “(e) KILLING AND KIDNAPING.—Whoever, in committing
32 any offense defined in this section, or in avoiding or attempting
33 to avoid apprehension for the commission of such offense, or
34 in freeing himself or attempting to free himself from arrest or
35 confinement for such offense, kills any person, or forces any
36 person to accompany him without the consent of such person,

1 shall be imprisoned not less than ten years, or if death results
2 shall be punished by death or life imprisonment.

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

4 “(1) the term ‘bank’ means any member bank of the
5 Federal Reserve System, and any bank, banking associa-
6 tion, trust company, savings bank, or other banking institu-
7 tion organized or operating under the laws of the United
8 States, including a branch or agency of a foreign bank (as
9 such terms are defined in paragraphs (1) and (3) of section
10 1(b) of the International Banking Act of 1978), and any
11 institution the deposits of which are insured by the Federal
12 Deposit Insurance Corporation;

13 “(2) the term ‘credit union’ means any Federal credit
14 union and any State-chartered credit union the accounts of
15 which are insured by the National Credit Union Adminis-
16 tration Board, and any ‘Federal credit union’ as defined in
17 section 2 of the Federal Credit Union Act;

18 “(3) the term ‘State-chartered credit union’ includes a
19 credit union chartered under the laws of a State; and

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

21 “(A) a Federal savings association or State savings
22 association (as defined in section 3(b) of the Federal
23 Deposit Insurance Act (12 U.S.C. 1813(b))) having ac-
24 counts insured by the Federal Deposit Insurance Cor-
25 poration; and

26 “(B) a corporation described in section 3(b)(1)(C) of
27 the Federal Deposit Insurance Act (12 U.S.C.
28 1813(b)(1)(C)) that is operating under the laws of the
29 United States.

30 **“§ 144. Communication of ransom demands and**
31 **other threatening communications in or**
32 **affecting commerce**

33 “(a) KIDNAP RANSOM.—Whoever knowingly transmits, in or
34 affecting interstate or foreign commerce, any communication
35 containing any demand or request for a ransom or reward for
36 the release of any kidnapped person shall be imprisoned not
37 more than 20 years.

1 “(b) THREATS TO KIDNAP OR INJURE.—Whoever, with in-
 2 tent to extort from any person any money or other thing of
 3 value, knowingly transmits, in or affecting interstate commerce,
 4 any communication containing any threat to kidnap any person
 5 or any threat to injure the person of another, shall be impris-
 6 oned not more than 20 years.

7 “(d) THREATS TO PROPERTY OR REPUTATION WITH IN-
 8 TENT TO EXTORT.—Whoever, with intent to extort from any
 9 person any money or other thing of value, knowingly transmits,
 10 in or affecting interstate or foreign commerce, any communica-
 11 tion containing any threat—

12 “(1) to injure the property or reputation of another or
 13 the reputation of a deceased person; or

14 “(2) to accuse another of a crime;

15 shall be or imprisoned not more than 10 years.

16 **“§ 145. Extortion by officers or employees of the**
 17 **United States**

18 “Whoever, being an officer, or employee of the United States
 19 or any department or agency thereof, or representing oneself to
 20 be or assuming to act as such, under color or pretense of office
 21 or employment commits or attempts an act of extortion, shall
 22 be imprisoned not more than three years; but if the amount so
 23 extorted or demanded does not exceed \$1,000, the offender
 24 shall be imprisoned not more than one year.

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

26 “Whoever receives, possesses, conceals, or disposes of any
 27 money or other property which was obtained from the commis-
 28 sion of any offense under this subchapter that is punishable by
 29 imprisonment for more than 1 year, knowing the same to have
 30 been unlawfully obtained, shall be imprisoned not more than 3
 31 years.

32 “SUBCHAPTER G—EXTORTIONATE CREDIT
 33 TRANSACTIONS

“Sec.

“155. Making extortionate extensions of credit.

“156. Financing extortionate extensions of credit.

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

“158. Effect on State laws.

“159. Definitions and rules of construction.

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

2 “(a) OFFENSE.—Whoever makes any extortionate extension
3 of credit, or conspires to do so, shall be imprisoned not more
4 than 20 years.

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

10 “(1) The repayment of the extension of credit, or the
11 performance of any promise given in consideration thereof,
12 would be unenforceable, through civil judicial processes
13 against the debtor—

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

16 “(B) in every jurisdiction within which the debtor, if
17 other than a natural person, was incorporated or quali-
18 fied to do business at the time the extension of credit
19 was made.

20 “(2) The extension of credit was made at a rate of inter-
21 est in excess of an annual rate of 45 per centum calculated
22 according to the actuarial method of allocating payments
23 made on a debt between principal and interest, pursuant to
24 which a payment is applied first to the accumulated inter-
25 est and the balance is applied to the unpaid principal.

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

28 “(A) one or more extensions of credit by the creditor
29 had been collected or attempted to be collected by ex-
30 tortionate means, or the nonrepayment thereof had
31 been punished by extortionate means; or

32 “(B) the creditor had a reputation for the use of ex-
33 tortionate means to collect extensions of credit or to
34 punish the nonrepayment thereof.

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

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

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

17 “Whoever knowingly advances money or property, whether as
18 a gift, as a loan, as an investment, pursuant to a partnership
19 or profit-sharing agreement, or otherwise, to any person, with
20 reason to believe that it is the intention of that person to use
21 the money or property so advanced directly or indirectly for the
22 purpose of making extortionate extensions of credit, shall be
23 imprisoned not more than 20 years.

24 **“§ 157. Collection of extensions of credit by extor-**
25 **tionate means**

26 “Whoever knowingly uses any extortionate means—

27 “(1) to collect or attempt to collect any extension of
28 credit; or

29 “(2) to punish any person for nonrepayment of an exten-
30 sion of credit;

31 shall be imprisoned not more than 20 years.

32 **“§ 158. Effect on State laws**

33 “This subchapter does not preempt State law that would be
34 permissible in the absence of this subchapter.

35 **“§ 159. Definitions and rules of construction**

36 “As used in this subchapter:

1 “(1) To extend credit means to make or renew any loan,
2 or to enter into any agreement, tacit or express, whereby
3 the repayment or satisfaction of any debt or claim, whether
4 acknowledged or disputed, valid or invalid, and however
5 arising, may or will be deferred.

6 “(2) The term ‘creditor’, with reference to any given ex-
7 tension of credit, refers to any person making that exten-
8 sion of credit, or to any person claiming by, under, or
9 through any person making that extension of credit.

10 “(3) The term ‘debtor’, with reference to any given ex-
11 tension of credit, refers to any person to whom that exten-
12 sion of credit is made, or to any person who guarantees the
13 repayment of that extension of credit, or in any manner un-
14 dertakes to indemnify the creditor against loss resulting
15 from the failure of any person to whom that extension of
16 credit is made to repay the same.

17 “(4) The repayment of any extension of credit includes
18 the repayment, satisfaction, or discharge in whole or in
19 part of any debt or claim, acknowledged or disputed, valid
20 or invalid, resulting from or in connection with that exten-
21 sion of credit.

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

24 “(6) An extortionate extension of credit is any extension
25 of credit with respect to which it is the understanding of
26 the creditor and the debtor at the time it is made that
27 delay in making repayment or failure to make repayment
28 could result in the use of violence or other criminal means
29 to cause harm to the person, reputation, or property of any
30 person.

31 “(7) An extortionate means is any means which involves
32 the use, or an express or implicit threat of use, of violence
33 or other criminal means to cause harm to the person, rep-
34 utation, or property of any person.

35 “(8) State law, including conflict of laws rules, governing
36 the enforceability through civil judicial processes of repay-
37 ment of any extension of credit or the performance of any

1 promise given in consideration thereof shall be judicially
 2 noticed. This paragraph does not impair any authority
 3 which any court would otherwise have to take judicial no-
 4 tice of any matter of State law.

5 “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.

6 **“§ 161. Interstate domestic violence; interstate**
 7 **stalking; interstate violations of custody**
 8 **orders**

9 “(a) OFFENSES.—Whoever—

10 “(1) travels in interstate or foreign commerce or enters
 11 or leaves Indian country or within the special maritime and
 12 territorial jurisdiction of the United States with the intent
 13 to kill, injure, harass, or intimidate a spouse, intimate part-
 14 ner, or dating partner, and who, in the course of or as a
 15 result of such travel, commits or attempts to commit a
 16 crime of violence against that spouse, intimate partner, or
 17 dating partner;

18 “(2) causes a spouse, intimate partner, or dating partner
 19 to travel in interstate or foreign commerce or to enter or
 20 leave Indian country or within the special maritime and
 21 territorial jurisdiction of the United States by force, coer-
 22 cion, duress, or fraud, and who, in the course of, as a re-
 23 sult of, or to facilitate such conduct or travel, commits or
 24 attempts to commit a crime of violence against that spouse,
 25 intimate partner, or dating partner;

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

1 rious bodily injury to, or causes substantial emotional dis-
2 tress to that person, a member of the immediate family (as
3 defined in section 115) of that person, or the spouse or in-
4 timate partner of that person; or

5 “(4) with the intent—

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

12 “(B) to place a person in another State or tribal ju-
13 risdiction, or within the special maritime and territorial
14 jurisdiction of the United States, in reasonable fear of
15 the death of, or serious bodily injury to—

16 “(i) that person;

17 “(ii) a member of the immediate family (as de-
18 fined in section 115 of that person; or

19 “(iii) a spouse or intimate partner of that per-
20 son;

21 uses the mail, any interactive computer service, or any fa-
22 cility of interstate or foreign commerce to engage in a
23 course of conduct that causes substantial emotional distress
24 to that person or places that person in reasonable fear of
25 the death of, or serious bodily injury to, any of the persons
26 described in clauses (i) through (iii) of subparagraph (B);

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

36 “(6) causes another person to travel in interstate or for-
37 eign commerce or to enter or leave Indian country by force,

1 coercion, duress, or fraud, and in the course of, as a result
 2 of, or to facilitate such conduct or travel engages in con-
 3 duct that violates the portion of a protection order that
 4 prohibits or provides protection against violence, threats, or
 5 harassment against, contact or communication with, or
 6 physical proximity to, another person, or that would violate
 7 such a portion of a protection order in the jurisdiction in
 8 which the order was issued;
 9 shall be punished as provided in subsection (b).

10 “(b) PUNISHMENT.—

11 “(1) IN GENERAL.—Whoever violates subsection (a) shall
 12 be imprisoned—

13 “(A) for life or any term of years, if death of the vic-
 14 tim results;

15 “(B) for not more than 20 years if permanent dis-
 16 figurement or life threatening bodily injury to the vic-
 17 tim results;

18 “(C) for not more than 10 years, if serious bodily in-
 19 jury to the victim results or if the offender uses a dan-
 20 gerous weapon during the offense;

21 “(D) as provided for the applicable conduct under
 22 subchapter A of chapter 13 if the offense would con-
 23 stitute an offense under that subchapter (without re-
 24 gard to whether the offense was committed in the spe-
 25 cial maritime and territorial jurisdiction of the United
 26 States or in a Federal prison); and

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

28 “(2) SPECIAL RULE.—Whoever violates paragraph (3) or
 29 (4) of subsection (a) in violation of a temporary or perma-
 30 nent civil or criminal injunction, restraining order, no-con-
 31 tact order, or other order described in section 164 shall be
 32 punished by imprisonment for not less than 1 year.

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

34 “In any proceeding pursuant to section 3142 for the purpose
 35 of determining whether a defendant charged under this sub-
 36 chapter shall be released pending trial, or for the purpose of
 37 determining conditions of such release, the alleged victim shall

1 be given an opportunity to be heard regarding the danger posed
2 by the defendant.

3 **“§ 163. Full faith and credit given to protection or-**
4 **ders**

5 “(a) FULL FAITH AND CREDIT.—Any protection order
6 issued that is consistent with subsection (b) of this section by
7 the court of one State, Indian tribe, or territory (the issuing
8 State, Indian tribe, or territory) shall be accorded full faith and
9 credit by the court of another State, Indian tribe, or territory
10 (the enforcing State, Indian tribe, or territory) and enforced by
11 the court and law enforcement personnel of the other State, In-
12 dian tribal government or Territory as if it were the order of
13 the enforcing State, Indian tribe, or territory.

14 “(b) PROTECTION ORDER.—A protection order issued by a
15 State, tribal, or territorial court is consistent with this sub-
16 section if—

17 “(1) such court has jurisdiction over the parties and
18 matter under the law of such State, Indian tribe, or terri-
19 tory; and

20 “(2) reasonable notice and opportunity to be heard is
21 given to the person against whom the order is sought suffi-
22 cient to protect that person’s right to due process; and in
23 the case of ex parte orders, notice and opportunity to be
24 heard must be provided within the time required by State,
25 tribal, or territorial law, and in any event within a reason-
26 able time after the order is issued, sufficient to protect the
27 respondent’s due process rights.

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

33 “(1) no cross or counter petition, complaint, or other
34 written pleading was filed seeking such a protection order;
35 or

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

4 “(d) NOTIFICATION AND REGISTRATION.—

5 “(1) NOTIFICATION.—A State, Indian tribe, or territory
6 according full faith and credit to an order by a court of an-
7 other State, Indian tribe, or territory shall not notify or re-
8 quire notification of the party against whom a protection
9 order has been issued that the protection order has been
10 registered or filed in that enforcing State, tribal, or terri-
11 torial jurisdiction unless requested to do so by the party
12 protected under such order.

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

19 “(3) LIMITS ON INTERNET PUBLICATION OF REGISTRA-
20 TION INFORMATION.—A State, Indian tribe, or territory
21 shall not make available publicly on the Internet any infor-
22 mation regarding the registration, filing of a petition for,
23 or issuance of a protection order, restraining order or in-
24 junction, restraining order, or injunction in either the
25 issuing or enforcing State, tribal or territorial jurisdiction,
26 if such publication would be likely to publicly reveal the
27 identity or location of the party protected under such order.
28 A State, Indian tribe, or territory may share court-gen-
29 erated and law enforcement-generated information con-
30 tained in secure, governmental registries for protection
31 order enforcement purposes.

32 “(e) TRIBAL COURT JURISDICTION.—For purposes of this
33 section, a tribal court shall have full civil jurisdiction to enforce
34 protection orders, including authority to enforce any orders
35 through civil contempt proceedings, exclusion of violators from
36 Indian lands, and other appropriate mechanisms, in matters
37 arising within the authority of the tribe.

“§ 164. Definitions

“As used in this subchapter—

“(1) the term ‘course of conduct’ means a pattern of conduct composed of 2 or more acts, demonstrating a continuity of purpose;

“(2) the term ‘enter or leave Indian country’ includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government;

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

“(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

“(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking;

“(4) the term ‘spouse or intimate partner’ includes—

“(A) for purposes of—

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

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

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

1 with the abuser, as determined by the length of
 2 the relationship, the type of relationship, and
 3 the frequency of interaction between the per-
 4 sons involved in the relationship; and

5 “(ii) section 2261A—

6 “(I) a spouse or former spouse of the target
 7 of the stalking, a person who shares a child in
 8 common with the target of the stalking, and a
 9 person who cohabits or has cohabited as a
 10 spouse with the target of the stalking; or

11 “(II) a person who is or has been in a social
 12 relationship of a romantic or intimate nature
 13 with the target of the stalking, as determined
 14 by the length of the relationship, the type of
 15 the relationship, and the frequency of inter-
 16 action between the persons involved in the rela-
 17 tionship; and

18 “(B) any other person similarly situated to a spouse
 19 who is protected by the domestic or family violence
 20 laws of the State or tribal jurisdiction in which the in-
 21 jury occurred or where the victim resides;

22 “(5) the term ‘travel in interstate or foreign commerce’
 23 does not include travel from one State to another by an in-
 24 dividual who is a member of an Indian tribe and who re-
 25 mains at all times in the territory of the Indian tribe of
 26 which the individual is a member; and

27 “(6) the term ‘dating partner’ refers to a person who is
 28 or has been in a social relationship of a romantic or inti-
 29 mate nature with the abuser; and the existence of such a
 30 relationship is based on a consideration of—

31 “(A) the length of the relationship;

32 “(B) the type of relationship; and

33 “(C) the frequency of interaction between the per-
 34 sons involved in the relationship.

35 **“§ 165. Repeat offenders**

36 “(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum
 37 term of imprisonment for a violation of this chapter after a

1 prior domestic violence or stalking offense shall be twice the
2 term otherwise provided under this chapter.

3 “(b) DEFINITION.—As used in this section, the term ‘prior
4 domestic violence or stalking offense’ means a conviction for an
5 offense—

6 “(1) under section 161; or

7 “(2) under State law for an offense consisting of conduct
8 that would have been an offense under a section referred
9 to in subparagraph (A) if the conduct had occurred within
10 the special maritime and territorial jurisdiction of the
11 United States, or in interstate or foreign commerce.

12 “SUBCHAPTER I—PROTECTION OF UNBORN
13 CHILDREN

“Sec.

“171. Protection of unborn children.

“172. Partial-birth abortions prohibited

14 **“§ 171. Protection of unborn children**

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

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

24 “(B) An offense under this section does not require proof
25 that—

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

29 “(ii) the defendant intended to cause the death of, or
30 bodily injury to, the unborn child.

31 “(C) If the person engaging in the conduct thereby inten-
32 tionally kills or attempts to kill the unborn child, that person
33 shall instead of being punished under subparagraph (A) and

1 subject to subparagraph (D), be punished as provided under
2 subchapter A for the like offense.

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

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

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

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

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

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

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

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

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

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

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

37 “(b) As used in this section—

1 “(1) the term ‘partial-birth abortion’ means an abortion
2 in which the person performing the abortion—

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

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

14 “(2) the term ‘physician’ means a doctor of medicine or
15 osteopathy legally authorized to practice medicine and sur-
16 gery by the State in which the doctor performs such activ-
17 ity, or any other individual legally authorized by the State
18 to perform abortions: Provided, however, That any indi-
19 vidual who is not a physician or not otherwise legally au-
20 thorized by the State to perform abortions, but who never-
21 theless directly performs a partial-birth abortion, shall be
22 subject to the provisions of this section.

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

30 “(2) Such relief shall include—

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

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

35 “(d)(1) A defendant accused of an offense under this section
36 may seek a hearing before the State Medical Board on whether
37 the physician’s conduct was necessary to save the life of the

1 mother whose life was endangered by a physical disorder, phys-
 2 ical illness, or physical injury, including a life-endangering
 3 physical condition caused by or arising from the pregnancy
 4 itself.

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

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

13 **“CHAPTER 13—SEX CRIMES**

| “Subchapter | Sec. |
|--|-------------|
| “A. Sexual abuse | 201 |
| “B. Transport for illegal sexual activity | 211 |
| “C. Sexual exploitation of children | 221 |
| “D. Sex offender registry | 241 |
| “E. General provisions and definitions | 255 |

14 **“SUBCHAPTER B—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.

15 **“§ 201. Sexual abuse**

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

19 “(1) AGGRAVATED SEXUAL ABUSE.—Whoever—

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

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

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

27 “(B) knowingly—

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

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

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

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

13 “(C) knowingly engages in a sexual act with another
14 person—

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

16 or

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

20 is guilty of aggravated sexual abuse.

21 “(2) SEXUAL ABUSE.—Whoever knowingly—

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

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

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

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

35 is guilty of sexual abuse.

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

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

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

7 “(1) PENALTIES.—

8 “(A) AGGRAVATED SEXUAL ABUSE.—Whoever com-
 9 mits aggravated sexual abuse in a place described in
 10 paragraph (2) shall be imprisoned for any term of
 11 years or for life.

12 “(B) SEXUAL ABUSE.—Whoever commits sexual
 13 abuse in a place described in paragraph (2) shall be im-
 14 prisoned not more than 20 years.

15 “(C) SEXUAL ABUSE OF A WARD.—Whoever commits
 16 sexual abuse of a ward in a place described in para-
 17 graph (2) shall be imprisoned not more than 5 years.

18 “(2) CIRCUMSTANCES.—The places referred to in para-
 19 graph (1) are—

20 “(A) the special maritime and territorial jurisdiction
 21 of the United States; or

22 “(B) a Federal prison or any prison institution or fa-
 23 cility in which persons are held in custody by direction
 24 of or pursuant to a contract or agreement with the At-
 25 torney General.

26 **“§ 202. Abusive sexual contact**

27 “(a) SEXUAL CONTACT IN CIRCUMSTANCES WHERE SEXUAL
 28 ACTS ARE PUNISHABLE.—Whoever engages in sexual contact
 29 with another person—

30 “(1) under circumstances in which, if the sexual contact
 31 had been a sexual act, the sexual contact would be punish-
 32 able under section 201(b)(1), shall be imprisoned not more
 33 than 10 years;

34 “(2) under circumstances in which, if the sexual contact
 35 had been a sexual act, the sexual contact would be punish-
 36 able under section 201(b)(2), shall be imprisoned not more
 37 than 3 years; and

1 “(3) under circumstances in which, if the sexual contact
2 had been a sexual act, the sexual contact would be punish-
3 able under section 201(b)(3), shall be imprisoned not more
4 than 2 years.

5 “(b) ENHANCED PENALTY WHERE CONTACT IS WITH A
6 CHILD UNDER 12 YEARS OF AGE.—If the sexual contact that
7 violates this section is with an individual who has not attained
8 the age of 12 years, the maximum term of imprisonment that
9 may be imposed for the offense is twice that otherwise provided
10 in this section.

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

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

17 “(b) DEFENSES.—

18 “(1) SEXUAL ABUSE OR SEXUAL CONTACT INVOLVING A
19 CHILD.—It is an affirmative defense to a prosecution under
20 this subchapter for an offense involving a child where an
21 element of the offense is that the child not be 16 years of
22 age or older that the defendant reasonably believed the
23 child to be 16 years of age or older.

24 “(2) MARRIAGE IN CERTAIN CASES.—It is an affirmative
25 defense to prosecution for an offense under this subchapter
26 involving a sexual act or sexual contact with a ward, that
27 the ward was married to the person engaging in the sexual
28 act or contact at the time of the alleged offense.

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

30 “Whoever, in the course of an offense under this subchapter,
31 engages in conduct that results in the death of a person, shall
32 be punished by death or imprisoned for any term of years or
33 for life.

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

35 “As used in this subchapter—

36 “(1) the term ‘sexual act’ means—

1 “(A) contact between the penis and the vulva or the
2 penis and the anus, and for purposes of this subpara-
3 graph contact involving the penis occurs upon penetra-
4 tion, however slight;

5 “(B) contact between the mouth and the penis, the
6 mouth and the vulva, or the mouth and the anus;

7 “(C) the penetration, however slight, of the anal or
8 genital opening of another by a hand or finger or by
9 any object, with an intent to abuse, humiliate, harass,
10 degrade, or arouse or gratify the sexual desire of any
11 person; or

12 “(D) the intentional touching, not through the cloth-
13 ing, of the genitalia of another person who has not at-
14 tained the age of 16 years with an intent to abuse, hu-
15 miliate, harass, degrade, or arouse or gratify the sexual
16 desire of any person;

17 “(2) the term ‘sexual contact’ means the intentional
18 touching, either directly or through the clothing, of the
19 genitalia, anus, groin, breast, inner thigh, or buttocks of
20 any person with an intent to abuse, humiliate, harass, de-
21 grade, or arouse or gratify the sexual desire of any person;

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

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

33 “(B) custody by a Federal officer or employee, or
34 under the direction of a Federal officer or employee,
35 for purposes incident to any detention described in sub-
36 paragraph (A) of this paragraph, including transpor-

1 tation, medical diagnosis or treatment, court appear-
 2 ance, work, and recreation;
 3 but does not include supervision or other control (other
 4 than custody during specified hours or days) after release
 5 on bail, probation, or parole, or after release following a
 6 finding of juvenile delinquency.

7 “SUBCHAPTER B—TRANSPORT FOR ILLEGAL
 8 SEXUAL ACTIVITY

“Sec.

“211. Transportation generally.

“212. Coercion and enticement.

“213. Transportation of children.

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

9 **“§ 211. Transportation generally**

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

16 **“§ 212. Coercion and enticement**

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

23 “(b) Whoever, using any facility of interstate or foreign com-
 24 merce, or within the special maritime and territorial jurisdic-
 25 tion of the United States, knowingly persuades, induces, en-
 26 tices, or coerces any child to engage in prostitution or any sex-
 27 ual activity for which any person can be charged with a crimi-
 28 nal offense, or attempts to do so, shall be imprisoned not less
 29 than 5 years and not more than 30 years.

30 **“§ 213. Transportation of children**

31 “(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMI-
 32 NAL SEXUAL ACTIVITY.—Whoever transports a child in inter-
 33 state or foreign commerce, or in any territory or possession of

1 the United States, with intent that the child engage in prostitu-
2 tion, or in any sexual activity for which any person can be
3 charged with a criminal offense, shall be imprisoned not less
4 than 5 years and not more than 30 years.

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

12 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN
13 PLACES.—Any United States citizen or alien admitted for per-
14 manent residence who travels in foreign commerce, and engages
15 in any illicit sexual conduct shall be imprisoned not more than
16 30 years.

17 “(d) ANCILLARY OFFENSES.—Whoever, for the purpose of
18 commercial advantage or private financial gain, arranges, in-
19 duces, procures, or facilitates the travel of a person knowing
20 that such a person is traveling in interstate commerce or for-
21 eign commerce for the purpose of engaging in illicit sexual con-
22 duct shall be imprisoned not more than 30 years.

23 “(e) ATTEMPT AND CONSPIRACY.—Whoever attempts or cons-
24pires to violate subsection (a), (b), (c), or (d) shall be punish-
25able in the same manner as a completed violation of that sub-
26section.

27 “(f) DEFINITION.—As used in this section, the term ‘illicit
28 sexual conduct’ means—

29 “(1) a sexual act (as defined in section 205) with a child
30 that would be in violation of subchapter A if the sexual act
31 occurred in the special maritime and territorial jurisdiction
32 of the United States;

33 “(2) any commercial sex act (as defined in section 1265)
34 with a child; or

35 “(3) the production of child pornography, as defined in
36 section 229.

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

6 **“§ 214. Use of interstate facilities to transmit infor-**
 7 **mation about a child**

8 “Whoever, using a facility of interstate or foreign commerce,
 9 or within the special maritime and territorial jurisdiction of the
 10 United States, knowingly transmits of the name, address, tele-
 11 phone number, social security number, or electronic mail ad-
 12 dress of another individual, knowing that such other individual
 13 has not attained the age of 16 years, with the intent to entice,
 14 encourage, offer, or solicit any person to engage in any sexual
 15 activity for which any person can be charged with a criminal
 16 offense, or attempts to do so, shall be imprisoned not more
 17 than 5 years.

18 “SUBCHAPTER C—SEXUAL EXPLOITATION OF
 19 CHILDREN

“Sec.

“221. Sexual exploitation of children.

“222. Selling or buying of children.

“223. Certain activities relating to material involving the sexual exploi-
 tation of children and child pornography.

“224. Misleading domain names on the Internet.

“225. Definitions for subchapter.

“226. Record keeping requirements.

“227. Failure to report child abuse.

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

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

22 (b)—

23 “(1) either—

24 “(A) employs, uses, persuades, induces, entices, or
 25 coerces any child to engage in, or who has a child assist
 26 any other person to engage in, any sexually explicit
 27 conduct for the purpose of producing any visual depic-
 28 tion of such conduct; or

29 “(B) transports any child in interstate or foreign
 30 commerce, or in any territory or possession of the

1 United States, with the intent that such child engage
2 in such conduct for such purpose; or

3 “(2) being a parent, legal guardian, or person having
4 custody or control of a child knowingly permits such child
5 to engage in, or to assist any other person to engage in,
6 sexually explicit conduct for the purpose of producing any
7 visual depiction of such conduct;

8 or attempts or conspires to do so shall be punished as provided
9 under subsection (e).

10 “(b) APPLICABILITY.—Subsection (a) applies if—

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

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

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

19 “(c) EXTRATERRITORIAL JURISDICTION.—There is
20 extraterritorial jurisdiction over an offense under subsection
21 (a)(1) if the offender—

22 “(1) intends such visual depiction to be transported to
23 the United States; or

24 “(2) transports such visual depiction to the United
25 States.

26 “(d) ADVERTISEMENTS.—(1) Whoever, as made applicable
27 by paragraph (2), knowingly makes, prints, or publishes, or
28 causes to be made, printed, or published, any notice or adver-
29 tisement seeking or offering—

30 “(A) to receive, exchange, buy, produce, display, dis-
31 tribute, or reproduce, any visual depiction, if the production
32 of such visual depiction involves the use of a child engaging
33 in sexually explicit conduct and such visual depiction is of
34 such conduct; or

35 “(B) participation in any act of sexually explicit conduct
36 by or with any child for the purpose of producing a visual
37 depiction of such conduct;

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

2 “(2) Paragraph (1) applies if—

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

6 “(B) such notice or advertisement is transported in or
7 affecting interstate or foreign commerce.

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

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

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

28 “(b) OBTAINING CUSTODY.—Whoever, as made applicable by
29 subsection (d) and with a mental state described in subsection
30 (c), obtains custody or control of a child, or offers to do so,
31 shall be punished by imprisonment for not less than 30 years
32 or for life.

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

35 “(1) knowledge that, as a consequence of the transfer of
36 custody, the child will be portrayed in a visual depiction en-

gaging in, or assisting another person to engage in, sexually explicit conduct; or

“(2) intent to promote either—

“(A) the engaging in of sexually explicit conduct by such child for the purpose of producing any visual depiction of such conduct; or

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

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

“(1) in the course of the conduct the child or the person engaging in the conduct travel in interstate or foreign commerce;

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

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

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

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

“(1) knowingly—

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

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

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

“(2) knowingly—

“(A) sells or possesses with intent to sell any exploitative visual depiction or child pornography; or

“(B) knowingly possesses an exploitative visual depiction or child pornography;

1 “(3) advertises, promotes, presents, distributes, or sol-
2 its any material or purported material in a manner that re-
3 flects the belief, or that is intended to cause another to be-
4 lieve, that the material or purported material contains an
5 exploitative visual depiction or child pornography;
6 or attempts or conspires to do so shall be punished as provided
7 in subsection (c).

8 “(b) APPLICABILITY.—Subsection (a) applies if—

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

12 “(2) the exploitative visual depiction or child pornog-
13 raphy is transported in or affecting interstate or foreign
14 commerce, or was produced using materials which have
15 been so transported.

16 “(c) PUNISHMENT.—The punishment for a violation of this
17 section is as follows:

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

30 “(2) Whoever violates, or attempts or conspires to vio-
31 late, paragraph (2)(B) of subsection (a) shall be imprisoned
32 not more than 10 years, or both, but if such person has
33 a prior conviction under this subchapter, subchapter F of
34 chapter 35, or under section 920 of title 10 (article 120 of
35 the Uniform Code of Military Justice), or under the laws
36 of any State relating to aggravated sexual abuse, sexual
37 abuse, or abusive sexual conduct involving a child or ward,

1 or the production, possession, receipt, mailing, sale, dis-
 2 tribution, shipment, or transportation of child pornography,
 3 such person shall be imprisoned for not less than 10 years
 4 nor more than 20 years.

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

8 “(1) possessed less than three matters containing any
 9 visual depiction proscribed by that paragraph; and

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

13 “(A) took reasonable steps to destroy each such vis-
 14 ual depiction; or

15 “(B) reported the matter to a law enforcement agen-
 16 cy and afforded that agency access to each such visual
 17 depiction.

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

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

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

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

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

35 “(a) OBSCENITY.—Whoever knowingly uses a misleading do-
 36 main name on the Internet with the intent to deceive a person

1 into viewing material constituting obscenity shall be imprisoned
2 not more than 2 years.

3 “(b) MATERIAL HARMFUL TO CHILDREN.—Whoever know-
4 ingly uses a misleading domain name on the Internet with the
5 intent to deceive a child into viewing material that is harmful
6 to Children on the Internet shall be imprisoned not more than
7 4 years.

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

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

12 “(2) the term ‘material that is harmful to children’
13 means any communication, consisting of nudity, sex, or ex-
14 cretion, that, taken as a whole and with reference to its
15 context—

16 “(A) predominantly appeals to a prurient interest of
17 children;

18 “(B) is patently offensive to prevailing standards in
19 the adult community as a whole with respect to what
20 is suitable material for children; and

21 “(C) lacks serious literary, artistic, political, or sci-
22 entific value for children; and

23 “(3) as used in this subsection, the term ‘sex’ means acts
24 of masturbation, sexual intercourse, or physical contact
25 with a person’s genitals, or the condition of human male
26 or female genitals when in a state of sexual stimulation or
27 arousal.

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

29 “In this subchapter the following definitions apply:

30 “(1)(A) Except as provided in subparagraph (B), the
31 term ‘sexually explicit conduct’ means actual or simu-
32 lated—

33 “(i) sexual intercourse, including genital-genital,
34 oral-genital, anal-genital, or oral-anal, whether between
35 persons of the same or opposite sex;

36 “(ii) bestiality;

37 “(iii) masturbation;

1 “(iv) sadistic or masochistic abuse; or

2 “(v) lascivious exhibition of the genitals or pubic
3 area of any person.

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

6 “(i) graphic sexual intercourse, including genital-gen-
7 ital, oral-genital, anal-genital, or oral-anal, whether be-
8 tween persons of the same or opposite sex, or lascivious
9 simulated sexual intercourse where the genitals, breast,
10 or pubic area of any person is exhibited;

11 “(ii) graphic or lascivious simulated—

12 “(I) bestiality;

13 “(II) masturbation; or

14 “(III) sadistic or masochistic abuse; or

15 “(iii) graphic or simulated lascivious exhibition of the
16 genitals or pubic area of any person.

17 “(2) The term ‘producing’ means producing, directing,
18 manufacturing, issuing, publishing, or advertising.

19 “(3) The term ‘visual depiction’ includes undeveloped
20 film and videotape, and data stored on computer disk or by
21 electronic means which is capable of conversion into a vis-
22 ual image.

23 “(4) The term ‘custody or control’ includes temporary su-
24 pervision over or responsibility for a child whether legally
25 or illegally obtained.

26 “(5) The term ‘child pornography’ means any visual de-
27 piction, including any photograph, film, video, picture, or
28 computer or computer-generated image or picture, whether
29 made or produced by electronic, mechanical, or other
30 means, of sexually explicit conduct, where—

31 “(A) the production of such visual depiction involves
32 the use of a child engaging in sexually explicit conduct;

33 “(B) such visual depiction is a digital image, com-
34 puter image, or computer-generated image that is, or
35 is indistinguishable from, that of a child engaging in
36 sexually explicit conduct; or

1 “(C) such visual depiction has been created, adapted,
2 or modified to appear that an identifiable child is en-
3 gaging in sexually explicit conduct.

4 “(6) The term ‘identifiable child’—

5 “(A) means a person—

6 “(i)(I) who was a child at the time the visual de-
7 piction was created, adapted, or modified; or

8 “(II) whose image as a child was used in cre-
9 ating, adapting, or modifying the visual depiction;
10 and

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

15 “(B) shall not be construed to require proof of the
16 actual identity of the identifiable child.

17 “(7) The term ‘graphic’, when used with respect to a de-
18 piction of sexually explicit conduct, means that a viewer
19 can observe any part of the genitals or pubic area of any
20 depicted person or animal during any part of the time that
21 the sexually explicit conduct is being depicted.

22 “(8) The term ‘indistinguishable’ used with respect to a
23 depiction, means virtually indistinguishable, in that the de-
24 piction is such that an ordinary person viewing the depic-
25 tion would conclude that the depiction is of an actual child
26 engaged in sexually explicit conduct. This definition does
27 not apply to depictions that are drawings, cartoons, sculp-
28 tures, or paintings depicting minors or adults.

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

30 “(a) DUTY TO KEEP RECORDS.—Whoever produces any
31 book, magazine, periodical, film, videotape, or other matter
32 which—

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

35 “(2) is produced in whole or in part with materials which
36 have been mailed or shipped in interstate or foreign com-

1 merce, or is shipped or transported or is intended for ship-
2 ment or transportation in interstate or foreign commerce;
3 shall create and maintain individually identifiable records per-
4 taining to every performer portrayed in such a visual depiction.

5 “(b) DUTY TO ASCERTAIN CERTAIN INFORMATION.—Any
6 person to whom subsection (a) applies shall, with respect to
7 every performer portrayed in a visual depiction of actual sexu-
8 ally explicit conduct—

9 “(1) ascertain, by examination of an identification docu-
10 ment containing such information, the performer’s name
11 and date of birth, and require the performer to provide
12 such other indicia of his or her identity as may be pre-
13 scribed by regulations;

14 “(2) ascertain any name, other than the performer’s
15 present and correct name, ever used by the performer in-
16 cluding maiden name, alias, nickname, stage, or profes-
17 sional name; and

18 “(3) record in the records required by subsection (a) the
19 information required by paragraphs (1) and (2) of this sub-
20 section and such other identifying information as may be
21 prescribed by regulation.

22 “(c) WHERE RECORDS MAINTAINED AND AVAILABILITY FOR
23 INSPECTION.—Any person to whom subsection (a) applies shall
24 maintain the records required by this section at his business
25 premises, or at such other place as the Attorney General may
26 by regulation prescribe and shall make such records available
27 to the Attorney General for inspection at all reasonable times.

28 “(d) EXCLUSION OF EVIDENCE.—

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

34 “(2) Paragraph (1) of this subsection does not preclude
35 the use of such information or evidence in a prosecution or
36 other action for a violation of this subchapter or subchapter
37 F of chapter 35, or for a violation of any applicable provi-

1 sion of law with respect to the furnishing of false informa-
2 tion.

3 “(e) STATEMENT.—

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

11 “(2) If the person to whom subsection (a) of this section ap-
12 plies is an organization the statement required by this sub-
13 section shall include the name, title, and business address of
14 the individual employed by such organization responsible for
15 maintaining the records required by this section.

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

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

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

26 “(3) for any person to whom subsection (a) applies
27 knowingly to fail to comply with subsection (e) or any regu-
28 lation promulgated pursuant to that subsection; and

29 “(4) for any person knowingly to sell or otherwise trans-
30 fer, or offer for sale or transfer, any book, magazine, peri-
31 odical, film, video, or other matter, produce in whole or in
32 part with materials which have been mailed or shipped in
33 interstate or foreign commerce or which is intended for
34 shipment in interstate or foreign commerce, which—

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

1 “(B) is produced in whole or in part with materials
2 which have been mailed or shipped in interstate or for-
3 foreign commerce, or is shipped or transported or is in-
4 tended for shipment or transportation in interstate or
5 foreign commerce;

6 which does not have affixed thereto, in a manner prescribed
7 as set forth in subsection (e)(1), a statement describing
8 where the records required by this section may be located,
9 but such person shall have no duty to determine the accu-
10 racy of the contents of the statement or the records re-
11 quired to be kept.

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

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

15 “(1) the term ‘actual sexually explicit conduct’ means ac-
16 tual but not simulated conduct as defined in subparagraphs
17 (A) through (D) of paragraph (2) of section 229 of this
18 title;

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

21 “(3) the term ‘produces’ means to produce, manufacture,
22 or publish any book, magazine, periodical, film, video tape,
23 computer generated image, digital image, or picture, or
24 other similar matter and includes the duplication, reproduc-
25 tion, or reissuing of any such matter, but does not include
26 mere distribution or any other activity which does not in-
27 volve hiring, contracting for managing, or otherwise ar-
28 ranging for the participation of the performers depicted;
29 and

30 “(4) the term ‘performer’ includes any person portrayed
31 in a visual depiction engaging in, or assisting another per-
32 son to engage in, actual sexually explicit conduct.

33 “(i) PENALTY FOR ANY VIOLATION OF THIS SECTION.—
34 Whoever violates this section shall be imprisoned for not more
35 than 5 years. Whoever violates this section after having been
36 convicted of a violation punishable under this section shall be

1 imprisoned for any period of years not more than 10 years but
2 not less than 2 years.

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

4 “Whoever, while engaged in a professional capacity or activ-
5 ity described in subsection (b) of section 226 of the Victims of
6 Child Abuse Act of 1990 on Federal land or in a federally oper-
7 ated (or contracted) facility, learns of facts that give reason to
8 suspect that a child has suffered an incident of child abuse, as
9 defined in subsection (c) of that section, and fails to make a
10 timely report as required by subsection (a) of that section, shall
11 be imprisoned not more than 6 months.

12 “SUBCHAPTER D—SEX OFFENDER REGISTRY

“Sec.

“241. Failure to register.

13 **“§ 241. Failure to register**

14 “(a) IN GENERAL.—Whoever—

15 “(1) is required to register under the Sex Offender Reg-
16 istration and Notification Act;

17 “(2)(A) is a sex offender as defined for the purposes of
18 the Sex Offender Registration and Notification Act by rea-
19 son of a conviction under Federal law (including the Uni-
20 form Code of Military Justice), the law of the District of
21 Columbia, Indian tribal law, or the law of any territory or
22 possession of the United States; or

23 “(B) travels in interstate or foreign commerce, or en-
24 ters or leaves, or resides in, Indian country; and

25 “(3) knowingly fails to register or update a registration
26 as required by the Sex Offender Registration and Notifica-
27 tion Act;

28 shall be fined under this title or imprisoned not more than 10
29 years, or both.

30 “(b) AFFIRMATIVE DEFENSE.—In a prosecution for a viola-
31 tion under subsection (a), it is an affirmative defense that—

32 “(1) uncontrollable circumstances prevented the indi-
33 vidual from complying;

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

4 “(3) the individual complied as soon as such cir-
5 cumstances ceased to exist.

6 “(c) CRIME OF VIOLENCE.—

7 “(1) IN GENERAL.—An individual described in sub-
8 section (a) who commits a crime of violence under Federal
9 law (including the Uniform Code of Military Justice), the
10 law of the District of Columbia, Indian tribal law, or the
11 law of any territory or possession of the United States shall
12 be imprisoned for not less than 5 years and not more than
13 30 years.

14 “(2) ADDITIONAL PUNISHMENT.—The punishment pro-
15 vided in paragraph (1) shall be in addition and consecutive
16 to the punishment provided for the violation described in
17 subsection (a).

18 “SUBCHAPTER E—GENERAL PROVISIONS AND
19 DEFINITIONS

“Sec.

“255. Repeat offenders.

“256. Civil remedy for personal injuries.

20 **“§ 255. Repeat offenders**

21 “(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum
22 term of imprisonment for a violation of subchapter A or B
23 after a prior sex offense conviction shall be twice the term of
24 imprisonment otherwise provided by this chapter, unless section
25 3559(e) applies.

26 “(b) DEFINITIONS.—In this section the term ‘prior sex of-
27 fense conviction’ means a conviction for an offense—

28 “(1) under this chapter; or

29 “(2) under State law for an offense consisting of conduct
30 that would have been an offense under this chapter if the
31 conduct had occurred within the special maritime and terri-
32 torial jurisdiction of the United States; and

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

2 “(a) A child who is a victim of a violation of section 201,
3 202, 203, 211, 212, 213, 221, 222, or 223 and who suffers
4 personal injury as a result of such violation may sue in any ap-
5 propriate United States District Court and shall recover the ac-
6 tual damages such minor sustains and the cost of the suit, in-
7 cluding a reasonable attorney’s fee. Any child as described in
8 the preceding sentence shall be deemed to have sustained dam-
9 ages of no less than \$50,000 in value.

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

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

| “Subchapter | Sec. |
|---|-------------|
| “A. Treason, sedition, and subversive activities | 261 |
| “B. Terrorism | 271 |
| “C. Military and navy | 292 |
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16 **“SUBCHAPTER A—TREASON, SEDITION, AND**
17 **SUBVERSIVE ACTIVITIES**

“Sec.

“261. Treason.

“262. Misprision of treason.

“263. Rebellion or insurrection.

“264. Seditious conspiracy.

“265. Advocating overthrow of Government.

18 **“§ 261. Treason**

19 “Whoever, owing allegiance to the United States, levies war
20 against them or adheres to their enemies, giving them aid and
21 comfort within the United States or elsewhere, is guilty of trea-
22 son and shall suffer death or be imprisoned for any term of
23 years not less than five, and shall be incapable of holding any
24 office under the United States.

25 **“§ 262. Misprision of treason**

26 “Whoever, owing allegiance to the United States and having
27 knowledge of the commission of any treason against them, con-

1 ceals and does not, as soon as may be, disclose and make
2 known the same to the President or to some judge of the
3 United States, or to the governor or to some judge or justice
4 of a particular State, is guilty of misprision of treason and
5 shall be imprisoned not more than seven years.

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

7 “Whoever incites, sets on foot, assists, or engages in any re-
8 bellion or insurrection against the authority of the United
9 States or the laws thereof, or gives aid or comfort thereto, shall
10 be imprisoned not more than ten years and shall be incapable
11 of holding any office under the United States.

12 **“§ 264. Seditious conspiracy**

13 “If two or more persons in any State or Territory, or in any
14 place subject to the jurisdiction of the United States, conspire
15 to overthrow, put down, or to destroy by force the Government
16 of the United States, or to levy war against them, or to oppose
17 by force the authority thereof, or by force to prevent, hinder,
18 or delay the execution of any law of the United States, or by
19 force to seize, take, or possess any property of the United
20 States contrary to the authority thereof, they shall each be im-
21 prisoned not more than 20 years.

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

23 “(a) IN GENERAL.—Whoever—

24 “(1) knowingly advocates, advises, or teaches the duty,
25 necessity, desirability, or propriety of overthrowing or de-
26 stroying the Government of the United States or the gov-
27 ernment of any State, or the government of any political
28 subdivision therein, by force or violence, or by the assas-
29 sination of any officer of any such government;

30 “(2) with intent to cause the overthrow or destruction of
31 any such government, prints, publishes, edits, issues, cir-
32 culates, sells, distributes, or publicly displays any written or
33 printed matter advocating, advising, or teaching the duty,
34 necessity, desirability, or propriety of overthrowing or de-
35 stroying any government in the United States by force or
36 violence; or

1 “(3) organizes or helps to organize any society, group, or
2 assembly of persons who teach, advocate, or encourage the
3 overthrow or destruction of any such government by force
4 or violence; or becomes or is a member of, or affiliates with,
5 any such society, group, or assembly of persons, knowing
6 the purposes thereof;

7 shall be imprisoned not more than 20 years, and shall be ineli-
8 gible for employment by the United States or any department
9 or agency thereof, for the five years next following the convic-
10 tion.

11 “(b) CONSPIRACY.—If two or more persons conspire to com-
12 mit any offense named in this section, each shall be imprisoned
13 not more than 20 years and shall be ineligible for employment
14 by the United States or any department or agency thereof, for
15 the five years next following the conviction.

16 “(c) DEFINITION.—As used in this section, the term ‘orga-
17 nize’, with respect to any society, group, or assembly of per-
18 sons, includes the recruiting of new members, the forming of
19 new units, and the regrouping or expansion of existing clubs,
20 classes, and other units of such society, group, or assembly of
21 persons.

22 “SUBCHAPTER B—TERRORISM

“Sec.

“271. Weapons of mass destruction, and explosives and other lethal de-
vices.

“272. Atomic weapons.

“273. Acts of terrorism transcending national boundaries.

“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 ter-
rorist organizations.

“280. Prohibitions against the financing of terrorism.

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

“282. Civil remedies.

“283. Definitions for subchapter.

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

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

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

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

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

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

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

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

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

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

24 “(B) any weapon that is designed or intended to
25 cause death or serious bodily injury through the re-
26 lease, dissemination, or impact of toxic or poisonous
27 chemicals, or their precursors;

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

30 “(D) any weapon that is designed to release radi-
31 ation or radioactivity at a level dangerous to human
32 life; or

33 “(E) any lethal device or explosive;

34 “(2) the term ‘property’ includes all real and personal
35 property;

36 “(3) the term ‘explosive’ has the meaning given in sec-
37 tion 844(j) of this title insofar that it is designed, or has

1 the capability, to cause death, serious bodily injury, or sub-
2 stantial material damage; and

3 “(4) the term ‘other lethal device’ means any weapon or
4 device that is designed or has the capability to cause death,
5 serious bodily injury, or substantial damage to property
6 through the release, dissemination, or impact of toxic
7 chemicals, biological agents, or toxins (as those terms are
8 defined in section 178 of this title) or radiation or radio-
9 active material.

10 **“§ 272. Atomic weapons**

11 “(a) OFFENSE.—Whoever, except as provided in section 91
12 of the Atomic Energy Act of 1954, in or affecting interstate
13 or foreign commerce in the United States or, as made applica-
14 ble by subsection (b) outside the United States, knowingly par-
15 ticipates in the development of, manufactures, produces, trans-
16 fers, acquires, receives, possesses, imports, exports, or uses, or
17 possesses and threatens to use, any atomic weapon. Nothing in
18 this section modifies section 31 a. or section 101 of the Atomic
19 Energy Act of 1954.

20 “(b) FEDERAL NEXUS TO CONDUCT OUTSIDE OF THE
21 UNITED STATES.— Conduct outside the United States is pro-
22 hibited by subsection (a) if—

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

25 “(2) the offense is committed against a national of the
26 United States.

27 **“§ 273. Acts of terrorism transcending national**
28 **boundaries**

29 “(a) PROHIBITED ACTS.—

30 “(1) OFFENSES.—Whoever, involving conduct tran-
31 scending national boundaries and as made applicable by
32 subsection (b)—

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

36 “(B) creates a substantial risk of serious bodily in-
37 jury to any other person by destroying or damaging

1 any structure, conveyance, or other real or personal
2 property within the United States or by attempting or
3 conspiring to destroy or damage any structure, convey-
4 ance, or other real or personal property within the
5 United States;

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

8 “(2) TREATMENT OF THREATS, ATTEMPTS, AND CON-
9 SPIRACIES.—Whoever threatens to commit an offense
10 under paragraph (1), or attempts or conspires to do so,
11 shall be punished under subsection (c).

12 “(b) APPLICABILITY.—

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

14 “(A) the mail or any facility of interstate or foreign
15 commerce is used in furtherance of the offense;

16 “(B) the offense obstructs, delays, or affects inter-
17 state or foreign commerce, or would have so obstructed,
18 delayed, or affected interstate or foreign commerce if
19 the offense had been consummated;

20 “(C) the victim, or intended victim, is the United
21 States Government, a member of the uniformed serv-
22 ices, or any official, officer, employee, or agent of the
23 legislative, executive, or judicial branches, or of any de-
24 partment or agency, of the United States;

25 “(D) the structure, conveyance, or other real or per-
26 sonal property is, in whole or in part, owned, possessed,
27 or leased to the United States, or any department or
28 agency of the United States;

29 “(E) the offense is committed in the territorial sea
30 (including the airspace above and the seabed and sub-
31 soil below, and artificial islands and fixed structures
32 erected thereon) of the United States; or

33 “(F) the offense is committed within the special mar-
34 itime and territorial jurisdiction of the United States.

35 “(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE
36 FACT.—Subsection (a) applies with respect to all principals
37 and co-conspirators of an offense under this section, and

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

5 “(c) PENALTIES.—

6 “(1) GENERALLY.—Whoever violates this section shall be
7 punished—

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

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

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

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

19 “(E) for destroying or damaging any structure, con-
20 veyance, or other real or personal property, by impris-
21 onment for not more than 25 years;

22 “(F) for attempting or conspiring to commit an of-
23 fense, for any term of years up to the maximum pun-
24 ishment that would have applied had the offense been
25 completed; and

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

28 “(2) CONSECUTIVE SENTENCE.—Notwithstanding any
29 other provision of law, the court shall not place on proba-
30 tion any person convicted of a violation of this section; nor
31 shall the term of imprisonment imposed under this section
32 run concurrently with any other term of imprisonment.

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

35 “(1) KNOWLEDGE.—The prosecution is not required to
36 prove knowledge by any defendant of a jurisdictional base
37 alleged in the indictment.

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

6 “(e) EXTRATERRITORIAL JURISDICTION.—There is
7 extraterritorial Federal jurisdiction—

8 “(1) over any offense under subsection (a), including any
9 threat, attempt, or conspiracy to commit such offense; and

10 “(2) over conduct which, under section 3, renders any
11 person an accessory after the fact to an offense under sub-
12 section (a).

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

22 “(g) REQUESTS FOR MILITARY ASSISTANCE.—The Attorney
23 General may request the Secretary of Defense to provide assist-
24 ance under section 382 of title 10 in support of Department
25 of Justice activities relating to the enforcement of section 271
26 during an emergency situation involving a weapon of mass de-
27 struction. The authority to make such a request may be exer-
28 cised by another official of the Department of Justice in ac-
29 cordance with section 382(f)(2) of title 10.

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

31 “(1) the term ‘conduct transcending national boundaries’
32 means conduct occurring outside of the United States in
33 addition to the conduct occurring in the United States;

34 “(2) the term ‘territorial sea of the United States’ means
35 all waters extending seaward to 12 nautical miles from the
36 baselines of the United States, determined in accordance
37 with international law; and

1 “(3) the term ‘Federal crime of terrorism’ means an of-
2 fense that—

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

6 “(B) is a violation of—

7 “(i) section 1301 (relating to destruction of air-
8 craft or aircraft facilities), 1305 (relating to vio-
9 lence at international airports), 571 (relating to
10 arson within special maritime and territorial juris-
11 diction), 621 or 623 (relating to biological weap-
12 ons), 624 (relating to variola virus), 631 (relating
13 to chemical weapons), 271 (relating weapons of
14 mass destruction and explosives and other lethal
15 devices), 612(m) or (n) (relating to plastic explo-
16 sives), 614(f)(2) or (3) (relating to arson and
17 bombing of Government property risking or causing
18 death), 614(i) (relating to arson and bombing of
19 property used in interstate commerce), 593(c) (re-
20 lating to killing or attempted killing during an at-
21 tack on a Federal facility with a dangerous weap-
22 on), 102(5) or (9) (relating to killings abroad),
23 787(a)(1) (relating to protection of computers),
24 787(a)(5)(A)(i) resulting in damage as defined in
25 787(a)(5)(B)(ii) through (v) (relating to protection
26 of computers), 102(2), (4), or (8) (relating to kill-
27 ing of officers and employees of the United States
28 foreign officials, official guests, or internationally
29 protected persons), 123 (relating to hostage tak-
30 ing), 1201 (relating to government property or con-
31 tracts), 1202 (relating to destruction of commu-
32 nication lines, stations, or systems), 1203 (relating
33 to injury to buildings or property within special
34 maritime and territorial jurisdiction of the United
35 States), 1205(a) (relating to destruction of an en-
36 ergy facility), 1331 (relating to terrorist attacks
37 and other acts of violence against mass transpor-

1 tation systems), 274 (relating to financial trans-
2 actions), 275 (relating to missile systems designed
3 to destroy aircraft), 276 (relating to radiological
4 dispersal devices), 277 (relating to harboring ter-
5 rorists), 278 (relating to providing material support
6 to terrorists), 279 (relating to providing material
7 support to terrorist organizations), 280 (relating to
8 financing of terrorism, or 1291 (relating to torture)
9 of this title;

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

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

25 **“§ 274. Financial transactions**

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

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

36 “(1) the term ‘financial transaction’ has the same mean-
37 ing as in section 1451; and

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

2 “(A) United States citizen or national;

3 “(B) permanent resident alien;

4 “(C) juridical person organized under the laws of the
5 United States; or

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

7 **“§ 275. Missile systems designed to destroy air-**
8 **craft**

9 “(a) UNLAWFUL CONDUCT.—

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

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

18 “(i) seek or proceed toward energy radiated or
19 reflected from an aircraft or toward an image locat-
20 ing an aircraft; or

21 “(ii) otherwise direct or guide the rocket or mis-
22 sile to an aircraft;

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

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

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

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

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

1 “(B) conduct pursuant to the terms of a contract
2 with the United States or any department or agency
3 thereof or with a State or any department or agency
4 thereof.

5 “(b) JURISDICTION.—Conduct prohibited by subsection (a) is
6 within the jurisdiction of the United States if—

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

9 “(2) the offense occurs outside of the United States and
10 is committed by a national of the United States;

11 “(3) the offense is committed against a national of the
12 United States while the national is outside the United
13 States;

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

18 “(5) an offender aids or abets any person over whom ju-
19 risdiction exists under this subsection in committing an of-
20 fense under this section or conspires with any person over
21 whom jurisdiction exists under this subsection to commit
22 an offense under this section.

23 “(c) CRIMINAL PENALTIES.—

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

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

35 “(3) SPECIAL CIRCUMSTANCES.—If the death of another
36 results from a person’s violation of subsection (a), the per-

1 son shall be fined not more than \$2,000,000 and punished
2 by imprisonment for life.

3 “(d) DEFINITION.—As used in this section, the term ‘air-
4 craft’ has the definition set forth in section 40102(a)(6) of title
5 49.

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

7 “(a) UNLAWFUL CONDUCT.—

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

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

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

19 “(2) EXCEPTION.—This subsection does not apply with
20 respect to—

21 “(A) conduct by or under the authority of the United
22 States or any department or agency thereof; or

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

26 “(b) JURISDICTION.—Conduct prohibited by subsection (a) is
27 within the jurisdiction of the United States if—

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

30 “(2) the offense occurs outside of the United States and
31 is committed by a national of the United States;

32 “(3) the offense is committed against a national of the
33 United States while the national is outside the United
34 States;

35 “(4) the offense is committed against any property that
36 is owned, leased, or used by the United States or by any

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

3 “(5) an offender aids or abets any person over whom ju-
4 risdiction exists under this subsection in committing an of-
5 fense under this section or conspires with any person over
6 whom jurisdiction exists under this subsection to commit
7 an offense under this section.

8 “(c) CRIMINAL PENALTIES.—

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

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

20 “(3) SPECIAL CIRCUMSTANCES.—If the death of another
21 results from a person’s violation of subsection (a), the per-
22 son shall be fined not more than \$2,000,000 and punished
23 by imprisonment for life.

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

25 “(a) OFFENSE.—Whoever harbors or conceals any person
26 who he knows, or has reasonable grounds to believe, has com-
27 mitted, or is about to commit, an offense under section 1301
28 (relating to destruction of aircraft or aircraft facilities), section
29 621 (relating to biological weapons), section 631 (relating to
30 chemical weapons), section 601 (relating to nuclear materials),
31 paragraph (2) or (3) of section 614(f) (relating to arson and
32 bombing of government property risking or causing injury or
33 death), section 1205(a) (relating to the destruction of an en-
34 ergy facility), section 13404.51 (relating to violence against
35 maritime navigation), section 271 (relating to weapons of mass
36 destruction), or section 273 (relating to acts of terrorism tran-
37 scending national boundaries) of this title, section 236(a) (re-

1 relating to sabotage of nuclear facilities or fuel) of the Atomic
 2 Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (re-
 3 lating to aircraft piracy) of title 49, shall imprisoned not more
 4 than ten years.

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

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

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

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

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

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

4 “(3) the term ‘expert advice or assistance’ means advice
5 or assistance derived from scientific, technical or other spe-
6 cialized knowledge.

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

9 “(a) PROHIBITED ACTIVITIES.—

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

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

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

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

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

37 “(A) \$50,000 per violation; or

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

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

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

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

15 “(2) an offender is a stateless person whose habitual res-
16 idence is in the United States;

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

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

23 “(5) the offense occurs in or affects interstate or foreign
24 commerce; or

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

30 “(e) INVESTIGATIONS.—

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

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

1 “(A) the compliance or noncompliance by a financial
2 institution with the requirements of subsection (a)(2);
3 and

4 “(B) civil penalty proceedings authorized under sub-
5 section (b).

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

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

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

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

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

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

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

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

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

10 “(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRE-
11 CAUTIONS BY COURT.—

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

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

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

22 “(iii) A declassified summary of the specific clas-
23 sified information.

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

28 “(3) TAKING OF TRIAL TESTIMONY.—

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

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

1 to guard against the compromise of any classified infor-
2 mation, including—

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

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

9 “(C) OBLIGATION OF DEFENDANT.—In any civil pro-
10 ceeding under this section, it shall be the defendant’s
11 obligation to establish the relevance and materiality of
12 any classified information sought to be introduced.

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

17 “(5) INTERLOCUTORY APPEAL.—

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

21 “(i) authorizing the disclosure of classified infor-
22 mation;

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

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

28 “(B) EXPEDITED CONSIDERATION.—

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

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

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

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

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

11 “(III) shall render its decision not later than
12 4 days after argument on appeal; and

13 “(IV) may dispense with the issuance of a
14 written opinion in rendering its decision.

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

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

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

27 “(1) the term ‘classified information’ has the meaning
28 given that term in section 1(a) of the Classified Informa-
29 tion Procedures Act (18 U.S.C. App.);

30 “(2) the term ‘funds’ includes coin or currency of the
31 United States or any other country, traveler’s checks, per-
32 sonal checks, bank checks, money orders, stocks, bonds, de-
33 bentures, drafts, letters of credit, any other negotiable in-
34 strument, and any electronic representation of any of the
35 foregoing;

36 “(3) the term ‘material support or resources’ has the
37 same meaning given that term in section 2339A (including

1 the definitions of ‘training’ and ‘expert advice or assistance’
2 in that section);

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

5 “(6) the term ‘terrorist organization’ means an organiza-
6 tion designated as a terrorist organization under section
7 219 of the Immigration and Nationality Act.

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

19 “(i) RULE OF CONSTRUCTION.—Nothing in this section shall
20 be construed or applied so as to abridge the exercise of rights
21 guaranteed under the First Amendment to the Constitution of
22 the United States.

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

32 **“§ 280. Prohibitions against the financing of ter-**
33 **rorism**

34 “(a) OFFENSES.—

35 “(1) IN GENERAL.—Whoever, in a circumstance de-
36 scribed in subsection (b), by any means, directly or indi-
37 rectly, unlawfully and knowingly provides or collects funds

1 with the intention that such funds be used, or with the
2 knowledge that such funds are to be used, in full or in
3 part, in order to carry out—

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

7 “(B) any other act intended to cause death or seri-
8 ous bodily injury to a civilian, or to any other person
9 not taking an active part in the hostilities in a situation
10 of armed conflict, when the purpose of such act, by its
11 nature or context, is to intimidate a population, or to
12 compel a government or an international organization
13 to do or to abstain from doing any act,

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

15 “(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts
16 or conspires to commit an offense under paragraph (1)
17 shall be punished as prescribed in subsection (d)(1).

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

22 “(b) JURISDICTION.—There is jurisdiction over the offenses
23 in subsection (a) in the following circumstances—

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

25 “(A) a perpetrator was a national of another state
26 or a stateless person;

27 “(B) on board a vessel flying the flag of another
28 state or an aircraft which is registered under the laws
29 of another state at the time the offense is committed;

30 “(C) on board an aircraft which is operated by the
31 government of another state;

32 “(D) a perpetrator is found outside the United
33 States;

34 “(E) was directed toward or resulted in the carrying
35 out of a predicate act against—

36 “(i) a national of another state; or

1 “(ii) another state or a government facility of
2 such state, including its embassy or other diplo-
3 matic or consular premises of that state;

4 “(F) was directed toward or resulted in the carrying
5 out of a predicate act committed in an attempt to com-
6 pel another state or international organization to do or
7 abstain from doing any act; or

8 “(G) was directed toward or resulted in the carrying
9 out of a predicate act—

10 “(i) outside the United States; or

11 “(ii) within the United States, and either the of-
12 fense or the predicate act was conducted in, or the
13 results thereof affected, interstate or foreign com-
14 merce;

15 “(2) the offense takes place outside the United States
16 and—

17 “(A) a perpetrator is a national of the United States
18 or is a stateless person whose habitual residence is in
19 the United States;

20 “(B) a perpetrator is found in the United States; or

21 “(C) was directed toward or resulted in the carrying
22 out of a predicate act against—

23 “(i) any property that is owned, leased, or used
24 by the United States or by any department or
25 agency of the United States, including an embassy
26 or other diplomatic or consular premises of the
27 United States;

28 “(ii) any person or property within the United
29 States;

30 “(iii) any national of the United States or the
31 property of such national; or

32 “(iv) any property of any legal entity organized
33 under the laws of the United States, including any
34 of its States, districts, commonwealths, territories,
35 or possessions;

36 “(3) the offense is committed on board a vessel flying
37 the flag of the United States or an aircraft which is reg-

1 istered under the laws of the United States at the time the
2 offense is committed;

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

5 “(5) the offense was directed toward or resulted in the
6 carrying out of a predicate act committed in an attempt to
7 compel the United States to do or abstain from doing any
8 act.

9 “(c) CONCEALMENT.—Whoever—

10 “(1)(A) is in the United States; or

11 “(B) is outside the United States and is a national of
12 the United States or a legal entity organized under the
13 laws of the United States (including any of its States, dis-
14 tricts, commonwealths, territories, or possessions); and

15 “(2) knowingly conceals or disguises the nature, location,
16 source, ownership, or control of any material support or re-
17 sources, or any funds or proceeds of such funds—

18 “(A) knowing or intending that the support or re-
19 sources are to be provided, or knowing that the support
20 or resources were provided, in violation of section
21 2339B of this title; or

22 “(B) knowing or intending that any such funds are
23 to be provided or collected, or knowing that the funds
24 were provided or collected, in violation of subsection
25 (a),

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

27 “(d) PENALTIES.—

28 “(1) SUBSECTION (a).—Whoever violates subsection (a)
29 shall be imprisoned for not more than 20 years.

30 “(2) SUBSECTION (c).—Whoever violates subsection (c)
31 shall be imprisoned for not more than 10 years.

32 “(e) DEFINITIONS.—In this section—

33 “(1) the term ‘funds’ means assets of every kind, wheth-
34 er tangible or intangible, movable or immovable, however
35 acquired, and legal documents or instruments in any form,
36 including electronic or digital, evidencing title to, or inter-
37 est in, such assets, including coin, currency, bank credits,

1 travelers checks, bank checks, money orders, shares, securi-
2 ties, bonds, drafts, and letters of credit;

3 “(2) the term ‘government facility’ means any permanent
4 or temporary facility or conveyance that is used or occupied
5 by representatives of a state, members of a government, the
6 legislature, or the judiciary, or by officials or employees of
7 a state or any other public authority or entity or by em-
8 ployees or officials of an intergovernmental organization in
9 connection with their official duties;

10 “(3) the term ‘proceeds’ means any funds derived from
11 or obtained, directly or indirectly, through the commission
12 of an offense set forth in subsection (a);

13 “(4) the term ‘provides’ includes giving, donating, and
14 transmitting;

15 “(5) the term ‘collects’ includes raising and receiving;

16 “(6) the term ‘predicate act’ means any act referred to
17 in subparagraph (A) or (B) of subsection (a)(1);

18 “(7) the term ‘treaty’ means—

19 “(A) the Convention for the Suppression of Unlawful
20 Seizure of Aircraft, done at The Hague on December
21 16, 1970;

22 “(B) the Convention for the Suppression of Unlawful
23 Acts against the Safety of Civil Aviation, done at Mon-
24 treal on September 23, 1971;

25 “(C) the Convention on the Prevention and Punish-
26 ment of Crimes against Internationally Protected Per-
27 sons, including Diplomatic Agents, adopted by the Gen-
28 eral Assembly of the United Nations on December 14,
29 1973;

30 “(D) the International Convention against the Tak-
31 ing of Hostages, adopted by the General Assembly of
32 the United Nations on December 17, 1979;

33 “(E) the Convention on the Physical Protection of
34 Nuclear Material, adopted at Vienna on March 3,
35 1980;

36 “(F) the Protocol for the Suppression of Unlawful
37 Acts of Violence at Airports Serving International Civil

1 Aviation, supplementary to the Convention for the Sup-
2 pression of Unlawful Acts against the Safety of Civil
3 Aviation, done at Montreal on February 24, 1988;

4 “(G) the Convention for the Suppression of Unlawful
5 Acts against the Safety of Maritime Navigation, done
6 at Rome on March 10, 1988;

7 “(H) the Protocol for the Suppression of Unlawful
8 Acts against the Safety of Fixed Platforms located on
9 the Continental Shelf, done at Rome on March 10,
10 1988; or

11 “(I) the International Convention for the Suppres-
12 sion of Terrorist Bombings, adopted by the General As-
13 sembly of the United Nations on December 15, 1997;

14 “(8) the term ‘intergovernmental organization’ includes
15 international organizations;

16 “(9) the term ‘international organization’ has the same
17 meaning as in section 136;

18 “(10) the term ‘armed conflict’ does not include internal
19 disturbances and tensions, such as riots, isolated and spo-
20 radic acts of violence, and other acts of a similar nature;

21 “(11) the term ‘material support or resources’ has the
22 same meaning given that term in section 2339B(g)(4) of
23 this title; and

24 “(12) the term ‘state’ has the same meaning as that
25 term has under international law, and includes all political
26 subdivisions thereof.

27 “(f) CIVIL PENALTY.—In addition to any other criminal,
28 civil, or administrative liability or penalty, any legal entity lo-
29 cated within the United States or organized under the laws of
30 the United States, including any of the laws of its States, dis-
31 tricts, commonwealths, territories, or possessions, shall be liable
32 to the United States for the sum of at least \$10,000, if a per-
33 son responsible for the management or control of that legal en-
34 tity has, in that capacity, committed an offense set forth in
35 subsection (a).

1 **“§ 281. Receiving military-type training from a**
2 **foreign terrorist organization**

3 “(a) OFFENSE.—Whoever, if a circumstance exists that is
4 described in section 279(d), knowingly receives military-type
5 training from or on behalf of any organization designated at
6 the time of the training by the Secretary of State under section
7 219(a)(1) of the Immigration and Nationality Act as a foreign
8 terrorist organization shall be imprisoned for ten years. To vio-
9 late this subsection, a person must have knowledge that the or-
10 ganization is a designated terrorist organization (as defined in
11 subsection (c)(4)), that the organization has engaged or en-
12 gages in terrorist activity (as defined in section 212 of the Im-
13 migration and Nationality Act), or that the organization has
14 engaged or engages in terrorism (as defined in section
15 140(d)(2) of the Foreign Relations Authorization Act, Fiscal
16 Years 1988 and 1989).

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

18 “(1) the term ‘military-type training’ includes training in
19 means or methods that can cause death or serious bodily
20 injury, destroy or damage property, or disrupt services to
21 critical infrastructure, or training on the use, storage, pro-
22 duction, or assembly of any explosive, firearm or other
23 weapon, including any weapon of mass destruction (as de-
24 fined in section 2232a(c)(2));

25 “(2) the term ‘critical infrastructure’ means systems and
26 assets vital to national defense, national security, economic
27 security, public health or safety including both regional and
28 national infrastructure. Critical infrastructure may be pub-
29 licly or privately owned; examples of critical infrastructure
30 include gas and oil production, storage, or delivery systems,
31 water supply systems, telecommunications networks, elec-
32 trical power generation or delivery systems, financing and
33 banking systems, emergency services (including medical,
34 police, fire, and rescue services), and transportation sys-
35 tems and services (including highways, mass transit, air-
36 lines, and airports); and

1 “(3) the term ‘foreign terrorist organization’ means an
2 organization designated as a terrorist organization under
3 section 219(a)(1) of the Immigration and Nationality Act.

4 **“§ 282. Civil remedies**

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

11 “(b) ESTOPPEL UNDER UNITED STATES LAW.—A final
12 judgment or decree rendered in favor of the United States in
13 any criminal proceeding under section 102, 111, 112, 121, or
14 123 of this title or section 46314, 46502, 46505, or 46506 of
15 title 49 shall estop the defendant from denying the essential al-
16 legations of the criminal offense in any subsequent civil pro-
17 ceeding under this section.

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

25 “(d) GENERAL VENUE.—A civil action under this section
26 may be instituted the United States district court for any dis-
27 trict where any plaintiff resides or where any defendant resides
28 or is served, or has an agent. Process in such a civil action may
29 be served in any district where the defendant resides, is found,
30 or has an agent.

31 “(e) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—
32 If the actions giving rise to the claim occurred within the spe-
33 cial maritime and territorial jurisdiction of the United States,
34 then a civil action under this section may be instituted in the
35 United States district court for any district in which any plain-
36 tiff resides or the defendant resides, is served, or has an agent.

1 “(f) SERVICE ON WITNESSES.—A witness in a civil action
2 brought under this section may be served in any other district
3 where the defendant resides, is found, or has an agent.

4 “(g) CONVENIENCE OF THE FORUM.—The district court
5 shall not dismiss any action brought under this section on the
6 grounds of the inconvenience or inappropriateness of the forum
7 chosen, unless—

8 “(1) the action may be maintained in a foreign court
9 that has jurisdiction over the subject matter and over all
10 the defendants;

11 “(2) that foreign court is significantly more convenient
12 and appropriate; and

13 “(3) that foreign court offers a remedy which is substan-
14 tially the same as the one available in the courts of the
15 United States.

16 “(h) STATUTE OF LIMITATIONS.—

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

20 “(2) The time of the absence of the defendant from the
21 United States or from any jurisdiction in which the same
22 or a similar action arising from the same facts may be
23 maintained by the plaintiff, or of any concealment of the
24 defendant’s whereabouts, shall not be included in the 4-
25 year period set forth in paragraph (1).

26 “(i) ACTS OF WAR.—No action shall be maintained under
27 this section of this title for injury or loss by reason of an act
28 of war.

29 “(j) LIMITATION ON DISCOVERY.—If a party to an action
30 under this section seeks to discover the investigative files of the
31 Department of Justice, the Assistant Attorney General, Deputy
32 Attorney General, or Attorney General may object on the
33 ground that compliance will interfere with a criminal investiga-
34 tion or prosecution of the incident, or a national security oper-
35 ation related to the incident, which is the subject of the civil
36 litigation. The court shall evaluate any such objections in cam-
37 era and shall stay the discovery if the court finds that granting

1 the discovery request will substantially interfere with a criminal
2 investigation or prosecution of the incident or a national secu-
3 rity operation related to the incident. The court shall consider
4 the likelihood of criminal prosecution by the Government and
5 other factors it deems to be appropriate. A stay of discovery
6 under this subsection shall constitute a bar to the granting of
7 a motion to dismiss under rules 12(b)(6) and 56 of the Federal
8 Rules of Civil Procedure. If the court grants a stay of discovery
9 under this subsection, it may stay the action in the interests
10 of justice.

11 “(k) STAY OF ACTION FOR CIVIL REMEDIES.—

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

24 “(2) In a proceeding under this subsection, the Attorney
25 General may request that any order issued by the court for
26 release to the parties and the public omit any reference to
27 the basis on which the stay was sought.

28 “(l) SUITS AGAINST GOVERNMENTS.—No action shall be
29 maintained under this section against—

30 “(1) the United States, an agency of the United States,
31 or an officer or employee of the United States or any agen-
32 cy thereof acting within his or her official capacity or under
33 color of legal authority; or

34 “(2) a foreign state, an agency of a foreign state, or an
35 officer or employee of a foreign state or an agency thereof
36 acting within his or her official capacity or under color of
37 legal authority.

1 “(m) EXCLUSIVE JURISDICTION.—The district courts of the
2 United States shall have exclusive original jurisdiction over an
3 action brought under this section.

4 **“§ 283. Definitions for subchapter**

5 “As used in this subchapter—

6 “(1) the term ‘international terrorism’ means activities
7 that—

8 “(A) involve violent acts or acts dangerous to human
9 life that are a violation of the criminal laws of the
10 United States or of any State, or that would be a
11 criminal violation if committed within the jurisdiction
12 of the United States or of any State;

13 “(B) appear to be intended—

14 “(i) to intimidate or coerce a civilian population;

15 “(ii) to influence the policy of a government by
16 intimidation or coercion; or

17 “(iii) to affect the conduct of a government by
18 mass destruction, assassination, or kidnapping; and

19 “(C) occur primarily outside the territorial jurisdic-
20 tion of the United States, or transcend national bound-
21 aries in terms of the means by which they are accom-
22 plished, the persons they appear intended to intimidate
23 or coerce, or the locale in which their perpetrators op-
24 erate or seek asylum;

25 “(3) the term ‘person’ means any individual or entity ca-
26 pable of holding a legal or beneficial interest in property;

27 “(4) the term ‘act of war’ means any act occurring in
28 the course of—

29 “(A) declared war;

30 “(B) armed conflict, whether or not war has been de-
31 clared, between two or more nations; or

32 “(C) armed conflict between military forces of any
33 origin; and

34 “(5) the term ‘domestic terrorism’ means activities
35 that—

1 “(A) involve acts dangerous to human life that are
2 a violation of the criminal laws of the United States or
3 of any State;

4 “(B) appear to be intended—

5 “(i) to intimidate or coerce a civilian population;

6 “(ii) to influence the policy of a government by
7 intimidation or coercion; or

8 “(iii) to affect the conduct of a government by
9 mass destruction, assassination, or kidnapping; and

10 “(C) occur primarily within the territorial jurisdic-
11 tion of the United States.

12 “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. Prohibition on disruptions of funerals of members or former mem-
bers of the Armed Forces.

“294. Demonstrations at cemeteries under the control of the National
Cemetery Administration and at Arlington National Cemetery.

13 **“§ 291. Entering military, naval, or Coast Guard**
14 **property**

15 “Whoever—

16 “(1) within the jurisdiction of the United States, goes
17 upon any military, naval, or Coast Guard reservation, post,
18 fort, arsenal, yard, station, or installation, for any purpose
19 prohibited by law or lawful regulation; or

20 “(2) reenters or is found within any such reservation,
21 post, fort, arsenal, yard, station, or installation, after hav-
22 ing been removed therefrom or ordered not to reenter by
23 any officer or person in command or charge thereof;

24 shall be or imprisoned not more than six months.

25 **“§ 292. Use of Army and Air Force as posse com-**
26 **itatus**

27 “Whoever, except in cases and under circumstances expressly
28 authorized by the Constitution or Act of Congress, knowingly
29 uses any part of the Army or the Air Force as a posse com-
30 itatus or otherwise to execute the laws shall be imprisoned not
31 more than two years.

1 **“§ 293. Prohibition on disruptions of funerals of**
2 **members or former members of the Armed**
3 **Forces**

4 “(a) PROHIBITION.—For any funeral of a member or former
5 member of the Armed Forces that is not located at a cemetery
6 under the control of the National Cemetery Administration or
7 part of Arlington National Cemetery, it shall be unlawful for
8 any person to engage in an activity during the period beginning
9 60 minutes before and ending 60 minutes after such funeral,
10 any part of which activity—

11 “(1)(A) takes place within the boundaries of the location
12 of such funeral or takes place within 150 feet of the point
13 of the intersection between—

14 “(i) the boundary of the location of such funeral; and

15 “(ii) a road, pathway, or other route of ingress to or
16 egress from the location of such funeral; and

17 “(B) includes any individual willfully making or assisting
18 in the making of any noise or diversion that is not part of
19 such funeral and that disturbs or tends to disturb the
20 peace or good order of such funeral with the intent of dis-
21 turbing the peace or good order of that funeral; or

22 “(2)(A) is within 300 feet of the boundary of the loca-
23 tion of such funeral; and

24 “(B) includes any individual willfully and without proper
25 authorization impeding the access to or egress from such
26 location with the intent to impede the access to or egress
27 from such location.

28 “(b) PENALTY.—Any person who violates subsection (a)
29 shall be fined under this title, imprisoned for not more than 1
30 year, or both.

31 “(c) DEFINITIONS.—In this section:

32 “(1) The term ‘Armed Forces’ has the meaning given the
33 term in section 101 of title 10.

34 “(2) The term ‘funeral of a member or former member
35 of the Armed Forces’ means any ceremony or memorial
36 service held in connection with the burial or cremation of
37 a member or former member of the Armed Forces.

1 “(3) The term ‘boundary of the location’, with respect to
2 a funeral of a member or former member of the Armed
3 Forces, means—

4 “(A) in the case of a funeral of a member or former
5 member of the Armed Forces that is held at a ceme-
6 tery, the property line of the cemetery;

7 “(B) in the case of a funeral of a member or former
8 member of the Armed Forces that is held at a mor-
9 tuary, the property line of the mortuary;

10 “(C) in the case of a funeral of a member or former
11 member of the Armed Forces that is held at a house
12 of worship, the property line of the house of worship;
13 and

14 “(D) in the case of a funeral of a member or former
15 member of the Armed Forces that is held at any other
16 kind of location, the reasonable property line of that lo-
17 cation.

18 **“§ 294. Demonstrations at cemeteries under the**
19 **control of the National Cemetery Adminis-**
20 **tration and at Arlington National Ceme-**
21 **tery**

22 “Whoever violates section 2413 of title 38 shall be fined
23 under this title, imprisoned for not more than one year, or
24 both.

25 **“SUBCHAPTER D—CIVIL DISORDERS AND RIOTS**

“Sec.

“296. Civil disorders.

26 **“§ 296. Civil disorders**

27 “(a) OFFENSE.—Whoever—

28 “(1) teaches or demonstrates to any other person the
29 use, application, or making of any firearm or explosive or
30 incendiary device, or technique capable of causing injury or
31 death to persons, knowing or having reason to know or in-
32 tending that the same will be unlawfully employed for use
33 in, or in furtherance of, a civil disorder which is in or af-
34 fects interstate or foreign commerce or the performance of
35 any federally protected function;

1 “(2) transports or manufactures for transportation in or af-
2 fecting interstate or foreign commerce any firearm or explosive
3 or incendiary device, knowing or having reason to know or in-
4 tending that the same will be used unlawfully in furtherance of
5 a civil disorder; or

6 “(3) commits or attempts to commit any act to obstruct, im-
7 pede, or interfere with any fireman or law enforcement officer
8 lawfully engaged in the lawful performance of official duties in-
9 cident to and during the commission of a civil disorder which
10 is in or affects commerce or the conduct or performance of any
11 federally protected function;

12 shall be imprisoned not more than five years.

13 “(b) LAW ENFORCEMENT EXCLUSION.—Nothing in this sec-
14 tion makes unlawful any act of any law enforcement officer
15 which is performed in the lawful performance of official duties.

16 “(c) DEFINITIONS.—The following definitions apply in this
17 section:

18 “(1) The term ‘civil disorder’ means any public disturb-
19 ance involving acts of violence by assemblages of three or
20 more persons, which causes an immediate danger of or re-
21 sults in damage or injury to the property or person of any
22 other individual.

23 “(2) The term ‘federally protected function’ means any
24 function, operation, or action carried out, under the laws
25 of the United States, by any department, agency, or instru-
26 mentality of the United States or by an officer or employee
27 thereof; and such term includes the collection and distribu-
28 tion of the United States mails.

29 “(3) The term ‘firearm’ means any weapon which is de-
30 signed to or may readily be converted to expel any projec-
31 tile by the action of an explosive; or the frame or receiver
32 of any such weapon.

33 “(4) The term ‘explosive or incendiary device’ means—

34 “(A) dynamite and all other forms of high explosives;

35 “(B) any explosive bomb, grenade, missile, or similar
36 device; and

1 “(C) any incendiary bomb or grenade, fire bomb, or
2 similar device, including any device which—

3 “(i) consists of or includes a breakable container
4 including a flammable liquid or compound, and a
5 wick composed of any material which, when ignited,
6 is capable of igniting such flammable liquid or com-
7 pound; and

8 “(ii) can be carried or thrown by one individual
9 acting alone.

10 “(5) The term ‘fireman’ means any member of a fire de-
11 partment (including a volunteer fire department) of any
12 State, any political subdivision of a State.

13 “(6) The term ‘law enforcement officer’ means any offi-
14 cer or employee of the United States, of any State or any
15 political subdivision of a State while engaged in the en-
16 forcement or prosecution of any of the criminal laws of the
17 United States or of that State or subdivision; and such
18 term includes members of the National Guard (as defined
19 in section 101 of title 10), members of the organized militia
20 of a State (as defined in section 101 of title 10), and mem-
21 bers of the Armed Forces of the United States, while en-
22 gaged in suppressing acts of violence or restoring law and
23 order during a civil disorder.

24 “(d) NON-PREEMPTION.—Nothing in this section shall be con-
25 strued as indicating an intent on the part of Congress to oc-
26 cupy the field in which any provisions of the section operate to
27 the exclusion of State or local laws on the same subject matter,
28 nor shall any provision of this section be construed to invalidate
29 any provision of State law unless such provision is inconsistent
30 with any of the purposes of this section or any provision there-
31 of.

32 “SUBCHAPTER E—ESPIONAGE AND 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.

1 **“§ 301. General provisions for subchapter**

2 “(a) DEFINITION.—In this subchapter, the term ‘foreign
3 power’ has the meaning given that term in section 101(a) of
4 the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
5 1801(a)).

6 “(b) EXCLUSION RELATING TO LAWFUL DEMANDS OF CON-
7 GRESS.—Nothing in this subchapter prohibits the furnishing,
8 upon lawful demand, of information to any regularly con-
9 stituted committee of the Senate or House of Representatives
10 of the United States of America, or joint committee thereof.

11 **“§ 302. Gathering or transmitting defense informa-
12 tion**

13 “Whoever, with intent or reason to believe that the informa-
14 tion will be used to the injury of the United States, or to the
15 advantage of any foreign power, knowingly—

16 “(1) obtains information connected with the national de-
17 fense; or

18 “(2) provides information connected with the national
19 defense to any person not entitled to receive it;

20 or attempts or conspires to do so, shall be imprisoned for life
21 or for any term of years, and if death results, shall be subject
22 to the death penalty.

23 **“§ 303. Losing defense information**

24 “Whoever, or having lawful possession or control of any in-
25 formation connected with the national defense—

26 “(1) recklessly permits that information to be lost, sto-
27 len, or destroyed; or

28 “(2) knowing that the information has been lost, or sto-
29 len, or destroyed, fails to make prompt report of that fact
30 to an appropriate superior officer;

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

33 **“§ 304. Disclosure of classified and other similarly
34 protected information**

35 “(a) OFFENSE.—Whoever knowingly provides protected in-
36 formation to a person not entitled to receive it, or knowingly
37 uses protected information to the injury of the United States,

1 or to the advantage of any foreign power, or attempts or con-
 2 spires to do so, shall be fined under this title or imprisoned not
 3 more than 20 years, or both.

4 “(b) DEFINITIONS.—In this section—

5 “(1) the term ‘protected information’ means any classi-
 6 fied information or any Restricted Data (as defined for the
 7 purposes of the Atomic Energy Act of 1954);

8 “(2) the term ‘classified information’ means information
 9 which, at the time of a violation of this section, is, for rea-
 10 sons of national security, specifically designated by a
 11 United States Government authority for limited or re-
 12 stricted dissemination or distribution—

13 “(A) concerning the nature, preparation, or use of
 14 any code, cipher, or cryptographic system of the United
 15 States or any foreign power;

16 “(B) concerning the design, construction, use, main-
 17 tenance, or repair of any device, apparatus, or appli-
 18 ance used or prepared or planned for use by the United
 19 States or any foreign power for cryptographic or com-
 20 munication intelligence purposes;

21 “(C) concerning the communication intelligence ac-
 22 tivities of the United States or any foreign power; or

23 “(D) obtained by the processes of communication in-
 24 telligence from the communications of any foreign
 25 power, knowing the same to have been obtained by
 26 such processes; and

27 “(3) the terms ‘code’, ‘cipher’, and ‘cryptographic sys-
 28 tem’ include any method of secret writing and any mechan-
 29 ical or electrical device or method used for the purpose of
 30 disguising or concealing the contents, significance, or
 31 meanings of communications.

32 “SUBCHAPTER F—IMMIGRATION AND NATIONALITY

“Sec.

“311. False statement in application and use of passport.

“312. Forgery or false use of passport.

“313. Misuse of passport.

“314. Fraud and misuse of visas, permits, and other documents.

“315. Procurement of citizenship or naturalization unlawfully.

“316. Sale of naturalization or citizenship papers.

- “317. Penalties related to removal.
 “318. Bringing in and harboring certain aliens.
 “319. Entry of alien at improper time or place; misrepresentation and concealment of facts.
 “320. Reentry of removed alien.
 “321. Aiding or assisting certain aliens to enter the United States.
 “322. Increased penalty for certain terrorism related offenses.

1 **“§ 311. False statement in application and use of**
 2 **passport**

3 “Whoever—

4 “(1) knowingly makes any false statement in an applica-
 5 tion for passport with intent to induce or secure the
 6 issuance of a passport under the authority of the United
 7 States, either for his own use or the use of another, con-
 8 trary to the laws regulating the issuance of passports or
 9 the rules prescribed pursuant to such laws; or

10 “(2) knowingly uses or attempts to use, or furnishes to
 11 another for use any passport the issue of which was se-
 12 cured in any way by reason of any false statement;

13 shall be imprisoned not more than 15 years.

14 **“§ 312. Forgery or false use of passport**

15 “Whoever—

16 “(1) falsely makes, forges, counterfeits, mutilates, or al-
 17 ters any passport or instrument purporting to be a pass-
 18 port, with intent that the same may be used; or

19 “(2) knowingly uses, or attempts to use, or furnishes to
 20 another for use any such false, forged, counterfeited, muti-
 21 lated, or altered passport or instrument purporting to be a
 22 passport, or any passport validly issued which has become
 23 void by the occurrence of any condition therein prescribed
 24 invalidating the same;

25 shall be imprisoned not more than 15 years.

26 **“§ 313. Misuse of passport**

27 “Whoever—

28 “(1) knowingly uses, or attempts to use, any passport
 29 issued or designed for the use of another;

30 “(2) knowingly uses or attempts to use any passport in
 31 violation of the conditions or restrictions therein contained,

1 or of the rules prescribed pursuant to the laws regulating
2 the issuance of passports; or

3 “(3) knowingly furnishes, disposes of, or delivers a pass-
4 port to any person, for use by another than the person for
5 whose use it was originally issued and designed;

6 shall be imprisoned not more than 15 years (in the case of any
7 other offense).

8 **“§ 314. Fraud and misuse of visas, permits, and**
9 **other documents**

10 “(a) FORGERY AND SIMILAR CONDUCT.—Whoever—

11 “(1) knowingly forges, counterfeits, alters, or falsely
12 makes any immigrant or nonimmigrant visa, permit, border
13 crossing card, alien registration receipt card, or other docu-
14 ment prescribed by statute or regulation for entry into or
15 as evidence of authorized stay or employment in the United
16 States, or utters, uses, attempts to use, possesses, obtains,
17 accepts, or receives any such visa, permit, border crossing
18 card, alien registration receipt card, or other document pre-
19 scribed by statute or regulation for entry into or as evi-
20 dence of authorized stay or employment in the United
21 States, knowing it to be forged, counterfeited, altered, or
22 falsely made, or to have been procured by means of any
23 false claim or statement, or to have been otherwise pro-
24 cured by fraud or unlawfully obtained;

25 “(2) except under direction of the Attorney General or
26 the Secretary of Homeland Security, or other proper offi-
27 cer, knowingly possesses any blank permit, or engraves,
28 sells, brings into the United States, or has in his control
29 or possession any plate in the likeness of a plate designed
30 for the printing of permits, or makes any print, photo-
31 graph, or impression in the likeness of any immigrant or
32 nonimmigrant visa, permit or other document required for
33 entry into the United States, or has in his possession a dis-
34 tinctive paper which has been adopted by the Attorney
35 General or Secretary of Homeland Security for the printing
36 of such visas, permits, or documents;

1 “(3) when applying for an immigrant or nonimmigrant
2 visa, permit, or other document required for entry into the
3 United States, or for admission to the United States
4 personates another, or falsely appears in the name of a de-
5 ceased individual, or evades or attempts to evade the immi-
6 gration laws by appearing under an assumed or fictitious
7 name without disclosing his true identity, or sells or other-
8 wise disposes of, or offers to sell or otherwise dispose of,
9 or utters, such visa, permit, or other document, to any per-
10 son not authorized by law to receive such document; or

11 “(4) knowingly makes under oath, or as permitted under
12 penalty of perjury under section 1746 of title 28, knowingly
13 subscribes as true, any false statement with respect to a
14 material fact in any application, affidavit, or other docu-
15 ment required by the immigration laws or regulations pre-
16 scribed thereunder, or knowingly presents any such applica-
17 tion, affidavit, or other document which contains any such
18 false statement or which fails to contain any reasonable
19 basis in law or fact;

20 “shall be fined under this title or imprisoned not more than
21 15 years.

22 “(b) USE OF FORGED OR SIMILAR DOCUMENTS.—Whoever
23 uses—

24 “(1) an identification document, knowing or having rea-
25 son to know that the document was not issued lawfully for
26 the use of the possessor;

27 “(2) an identification document knowing (or having rea-
28 son to know) that the document is false; or

29 “(3) a false attestation,
30 for the purpose of satisfying a requirement of section 274A(b)
31 of the Immigration and Nationality Act, shall be imprisoned
32 not more than 5 years.

33 “(c) EXCLUSION.—This section does not prohibit any law-
34 fully authorized investigative, protective, or intelligence activity
35 of a law enforcement agency of the United States, a State, or
36 a subdivision of a State, or of an intelligence agency of the
37 United States, or any activity authorized under title V of the

1 Organized Crime Control Act of 1970 (18 U.S.C. note prec.
2 3481).

3 **“§ 315. Procurement of citizenship or naturaliza-**
4 **tion unlawfully**

5 “Whoever—

6 “(1) knowingly procures or attempts to procure, contrary
7 to law, the naturalization of any person, or documentary or
8 other evidence of naturalization or of citizenship; or

9 “(2) whether for himself or another person not entitled
10 thereto, knowingly issues, procures or obtains or applies for
11 or otherwise attempts to procure or obtain naturalization,
12 or citizenship, or a declaration of intention to become a citi-
13 zen, or a certificate of arrival or any certificate or evidence
14 of nationalization or citizenship, documentary or otherwise,
15 or duplicates or copies of any of the foregoing;

16 shall be imprisoned not more than 15 years.

17 **“§ 316. Sale of naturalization or citizenship papers**

18 “Whoever unlawfully sells or disposes of a declaration of in-
19 tention to become a citizen, certificate of naturalization, certifi-
20 cate of citizenship or copies or duplicates or other documentary
21 evidence of naturalization or citizenship, shall be imprisoned 15
22 years.

23 **“§ 317. Penalties related to removal**

24 “(a) PENALTY FOR FAILURE TO DEPART.—

25 “(1) IN GENERAL.—Any alien against whom a final
26 order of removal is outstanding by reason of being a mem-
27 ber of any of the classes described in section 237(a) of the
28 Immigration and Nationality Act, who—

29 “(A) knowingly fails or refuses to depart from the
30 United States within a period of 90 days from the date
31 of the final order of removal under administrative proc-
32 esses, or if judicial review is had, then from the date
33 of the final order of the court,

34 “(B) knowingly fails or refuses to make timely appli-
35 cation in good faith for travel or other documents nec-
36 cessary to the alien’s departure,

1 “(C) connives or conspires, or takes any other action,
2 designed to prevent or hamper or with the purpose of
3 preventing or hampering the alien’s departure pursuant
4 to such, or

5 “(D) knowingly fails or refuses to present himself or
6 herself for removal at the time and place required by
7 the Attorney General pursuant to such order,

8 shall be imprisoned not more than four years (or 10 years
9 if the alien is a member of any of the classes described in
10 paragraph (1)(E), (2), (3), or (4) of section 237(a) of the
11 Immigration and Nationality Act).

12 “(2) EXCEPTION.—It is not a violation of paragraph (1)
13 to take any proper steps for the purpose of securing can-
14 cellation of or exemption from such order of removal or for
15 the purpose of securing the alien’s release from incarcer-
16 ation or custody.

17 “(3) SUSPENSION.—The court may for good cause sus-
18 pend the sentence of an alien under this subsection and
19 order the alien’s release under such conditions as the court
20 may prescribe. In determining whether good cause has been
21 shown to justify releasing the alien, the court shall take
22 into account such factors as—

23 “(A) the age, health, and period of detention of the
24 alien;

25 “(B) the effect of the alien’s release upon the na-
26 tional security and public peace or safety;

27 “(C) the likelihood of the alien’s resuming or fol-
28 lowing a course of conduct which made or would make
29 the alien deportable;

30 “(D) the character of the efforts made by such alien
31 himself and by representatives of the country or coun-
32 tries to which the alien’s removal is directed to expedite
33 the alien’s departure from the United States;

34 “(E) the reason for the inability of the Government
35 of the United States to secure passports, other travel
36 documents, or removal facilities from the country or

1 countries to which the alien has been ordered removed;
2 and

3 “(F) the eligibility of the alien for discretionary relief
4 under the immigration laws.

5 “(b) FAILURE TO COMPLY WITH TERMS OF RELEASE
6 UNDER SUPERVISION.—An alien who knowingly fails to comply
7 with regulations or requirements issued pursuant to section
8 241(a)(3) of the Immigration and Nationality Act or knowingly
9 give false information in response to an inquiry under such sec-
10 tion shall be imprisoned for not more than one year.

11 “(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—
12 “(1) CIVIL PENALTIES.—

13 “(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If
14 the Attorney General is satisfied that a person has vio-
15 lated subsection (d) or (e) of section 241 of the Immi-
16 gration and Nationality Act, the person shall pay to the
17 Commissioner the sum of \$2,000 for each violation.

18 “(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If
19 the Attorney General is satisfied that a person has
20 failed to remove an alien stowaway as required under
21 section 241(d)(2) of the Immigration and Nationality
22 Act, the person shall pay to the Commissioner the sum
23 of \$5,000 for each alien stowaway not removed.

24 “(C) NO COMPROMISE.—The Attorney General may
25 not compromise the amount of such penalty under this
26 paragraph.

27 “(2) CLEARING VESSELS AND AIRCRAFT.—

28 “(A) CLEARANCE BEFORE DECISION ON LIABIL-
29 ITY.—A vessel or aircraft may be granted clearance be-
30 fore a decision on liability is made under paragraph (1)
31 only if a bond approved by the Attorney General or an
32 amount sufficient to pay the civil penalty is deposited
33 with the Commissioner.

34 “(B) PROHIBITION ON CLEARANCE WHILE PENALTY
35 UNPAID.—A vessel or aircraft may not be granted
36 clearance if a civil penalty imposed under paragraph
37 (1) is not paid.

1 “(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF
2 COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On
3 being notified by the Attorney General that the government of
4 a foreign country denies or unreasonably delays accepting an
5 alien who is a citizen, subject, national, or resident of that
6 country after the Attorney General asks whether the govern-
7 ment will accept the alien under this section, the Secretary of
8 State shall order consular officers in that foreign country to
9 discontinue granting immigrant visas or nonimmigrant visas, or
10 both, to citizens, subjects, nationals, and residents of that
11 country until the Attorney General notifies the Secretary that
12 the country has accepted the alien.

13 **“§ 318. Bringing in and harboring certain aliens**

14 “(a) CRIMINAL PENALTIES.—(1)(A) Whoever—

15 “(i) knowing that a person is an alien, brings to or at-
16 tempts to bring to the United States in any manner what-
17 soever such person at a place other than a designated port
18 of entry or place other than as designated by the Commis-
19 sioner, regardless of whether such alien has received prior
20 official authorization to come to, enter, or reside in the
21 United States and regardless of any future official action
22 which may be taken with respect to such alien;

23 “(ii) knowing or in reckless disregard of the fact that an
24 alien has come to, entered, or remains in the United States
25 in violation of law, transports, or moves or attempts to
26 transport or move such alien within the United States by
27 means of transportation or otherwise, in furtherance of
28 such violation of law;

29 “(iii) knowing or in reckless disregard of the fact that
30 an alien has come to, entered, or remains in the United
31 States in violation of law, conceals, harbors, or shields from
32 detection, or attempts to conceal, harbor, or shield from de-
33 tection, such alien in any place, including any building or
34 any means of transportation;

35 “(iv) encourages or induces an alien to come to, enter,
36 or reside in the United States, knowing or in reckless dis-

1 regard of the fact that such coming to, entry, or residence
2 is or will be in violation of law; or

3 “(v) engages in any conspiracy to commit any of the pre-
4 ceding acts;

5 shall be punished as provided in subparagraph (B).

6 “(B) Whoever violates subparagraph (A) shall, for each alien
7 in respect to whom such a violation occurs—

8 “(i) in the case of a violation of subparagraph (A)(i) or
9 (v)(I) or in the case of a violation of subparagraph (A)(ii),
10 (iii), or (iv) in which the offense was done for the purpose
11 of commercial advantage or private financial gain, be im-
12 prisoned not more than 10 years;

13 “(ii) in the case of a violation of subparagraph (A) (ii),
14 (iii), (iv), or (v)(II) be imprisoned not more than 5 years;

15 “(iii) in the case of a violation of subparagraph (A) (i),
16 (ii), (iii), (iv), or (v) during and in relation to which the
17 person causes serious bodily injury to, or places in jeopardy
18 the life of, any person, be imprisoned not more than 20
19 years; and

20 “(iv) in the case of a violation of subparagraph (A) (i),
21 (ii), (iii), (iv), or (v) resulting in the death of any person,
22 be punished by death or imprisoned for any term of years
23 or for life.

24 “(2) Whoever, knowing or in reckless disregard of the fact
25 that an alien has not received prior official authorization to
26 come to, enter, or reside in the United States, brings to or at-
27 tempts to bring to the United States in any manner whatso-
28 ever, such alien, regardless of any official action which may
29 later be taken with respect to such alien shall, for each alien
30 in respect to whom a violation of this paragraph occurs—

31 “(A) be imprisoned not more than one year; or

32 “(B) in the case of—

33 “(i) an offense committed with the intent or with
34 reason to believe that the alien unlawfully brought into
35 the United States will commit an offense against the
36 United States or any State punishable by imprisonment
37 for more than 1 year,

1 “(ii) an offense done for the purpose of commercial
2 advantage or private financial gain, or

3 “(iii) an offense in which the alien is not upon ar-
4 rival immediately brought and presented to an appro-
5 priate immigration officer at a designated port of
6 entry,

7 be imprisoned not less than 5 nor more than 15 years.

8 “(3)(A) Whoever, during any 12-month period, knowingly
9 hires for employment at least 10 individuals with actual knowl-
10 edge that the individuals are aliens described in subparagraph
11 (B) shall be imprisoned for not more than 5 years.

12 “(B) An alien described in this subparagraph is an alien
13 who—

14 “(i) is an unauthorized alien (as defined in section
15 274A(h)(3)), and

16 “(ii) has been brought into the United States in violation
17 of this subsection.

18 “(4) In the case of a person who has brought aliens into the
19 United States in violation of this subsection, the sentence oth-
20 erwise provided for may be increased by up to 10 years if—

21 “(A) the offense was part of an ongoing commercial or-
22 ganization or enterprise;

23 “(B) aliens were transported in groups of 10 or more;
24 and

25 “(C)(i) aliens were transported in a manner that endan-
26 gered their lives; or

27 “(ii) the aliens presented a life-threatening health risk to
28 people in the United States.

29 “(b) AUTHORITY TO ARREST.—No officer or person shall
30 have authority to make any arrest for a violation of any provi-
31 sion of this section except officers and employees of the Service
32 designated by the Attorney General, either individually or as a
33 member of a class, and all other officers whose duty it is to
34 enforce criminal laws.

35 “(c) AUDIOVISUALLY PRESERVED DEPOSITIONS.—Notwith-
36 standing any provision of the Federal Rules of Evidence, the
37 videotaped (or otherwise audiovisually preserved) deposition of

1 a witness to a violation of subsection (a) who has been deported
2 or otherwise expelled from the United States, or is otherwise
3 unable to testify, may be admitted into evidence in an action
4 brought for that violation if the witness was available for cross
5 examination and the deposition otherwise complies with the
6 Federal Rules of Evidence.

7 “(d) OUTREACH PROGRAM.—The Secretary of Homeland Se-
8 curity, in consultation with the Attorney General and the Sec-
9 retary of State, as appropriate, shall develop and implement an
10 outreach program to educate the public in the United States
11 and abroad about the penalties for bringing in and harboring
12 aliens in violation of this section.

13 **“§ 319. Entry of alien at improper time or place;**
14 **misrepresentation and concealment of**
15 **facts**

16 “(a) ENTRY.—Any alien who—

17 “(1) enters or attempts to enter the United States at
18 any time or place other than as designated by immigration
19 officers;

20 “(2) eludes examination or inspection by immigration of-
21 ficers; or

22 “(3) attempts to enter or obtains entry to the United
23 States by a knowingly false or misleading representation or
24 the knowingly concealment of a material fact;

25 shall, for the first commission of any such offense, be impris-
26 oned not more than 6 months, and, for a subsequent commis-
27 sion of any such offense, be imprisoned not more than 2 years.

28 “(b) APPREHENSION WHILE ENTERING.—Any alien who is
29 apprehended while entering (or attempting to enter) the United
30 States at a time or place other than as designated by immigra-
31 tion officers shall be subject to a civil penalty of—

32 “(1) at least \$50 and not more than \$250 for each such
33 entry (or attempted entry); or

34 “(2) twice the amount specified in paragraph (1) in the
35 case of an alien who has been previously subject to a civil
36 penalty under this subsection.

1 Civil penalties under this subsection are in addition to, and not
 2 in lieu of, any criminal or other civil penalties that may be im-
 3 posed.

4 “(c) MARRIAGE.—An individual who knowingly enters into a
 5 marriage for the purpose of evading any provision of the immi-
 6 gration laws shall be imprisoned for not more than 5 years.

7 “(d) COMMERCIAL ENTERPRISE.—Whoever knowingly estab-
 8 lishes a commercial enterprise for the purpose of evading any
 9 provision of the immigration laws shall be imprisoned for not
 10 more than 5 years.

11 **“§ 320. Reentry of removed alien**

12 “(a) OFFENSE.—Subject to subsection (b), any alien who—

13 “(1) has been denied admission, excluded, deported, or
 14 removed or has departed the United States while an order
 15 of exclusion, deportation, or removal is outstanding; and

16 “(2) thereafter enters, attempts to enter, or is at any
 17 time found in, the United States, unless (A) prior to his
 18 reembarkation at a place outside the United States or his
 19 application for admission from foreign contiguous territory,
 20 the Attorney General has expressly consented to such
 21 alien’s reapplying for admission; or (B) with respect to an
 22 alien previously denied admission and removed, unless such
 23 alien shall establish that he was not required to obtain such
 24 advance consent under this or any prior Act,

25 shall be imprisoned not more than 2 years.

26 “(b) INCREASED PENALTY.—In the case of any alien vio-
 27 lating subsection (a)—

28 “(1) whose removal was subsequent to a conviction for
 29 commission of three or more misdemeanors involving drugs,
 30 crimes against the person, or both, or a felony (other than
 31 an aggravated felony), such alien shall be imprisoned not
 32 more than 10 years;

33 “(2) whose removal was subsequent to a conviction for
 34 commission of an aggravated felony, such alien shall be im-
 35 prisoned not more than 20 years;

36 “(3) who has been excluded from the United States pur-
 37 suant to section 235(c) of the Immigration and Nationality

1 Act because the alien was excludable under section
2 212(a)(3)(B) of such Act or who has been removed from
3 the United States pursuant to title V of such Act, and who
4 thereafter, without the permission of the Attorney General,
5 enters the United States, or attempts to do so, shall be im-
6 prisoned for a period of 10 years, which sentence shall not
7 run concurrently with any other sentence; or

8 “(4) who was removed from the United States pursuant
9 to section 241(a)(4)(B) of such Act who thereafter, without
10 the permission of the Attorney General, enters, attempts to
11 enter, or is at any time found in, the United States (unless
12 the Attorney General has expressly consented to such
13 alien’s reentry) shall be imprisoned for not more than 10
14 years.

15 For the purposes of this subsection, the term ‘removal’ includes
16 any agreement in which an alien stipulates to removal during
17 (or not during) a criminal trial under either Federal or State
18 law.

19 “(c) REENTRY.—Any alien deported pursuant to section
20 242(h)(2) of the Immigration and Nationality Act who enters,
21 attempts to enter, or is at any time found in, the United States
22 (unless the Attorney General has expressly consented to such
23 alien’s reentry) shall be incarcerated for the remainder of the
24 sentence of imprisonment which was pending at the time of de-
25 portation without any reduction for parole or supervised re-
26 lease. Such alien shall be subject to such other penalties relat-
27 ing to the reentry of deported aliens as may be available under
28 this section or any other provision of law.

29 “(d) CHALLENGE OF VALIDITY OF ORDER.—In a criminal
30 proceeding under this section, an alien may not challenge the
31 validity of the deportation order described in subsection (a)(1)
32 or subsection (b) unless the alien demonstrates that—

33 “(1) the alien exhausted any administrative remedies
34 that may have been available to seek relief against the
35 order;

1 “(2) the deportation proceedings at which the order was
2 issued improperly deprived the alien of the opportunity for
3 judicial review; and

4 “(3) the entry of the order was fundamentally unfair.

5 **“§ 321. Aiding or assisting certain aliens to enter**
6 **the United States**

7 “Whoever knowingly aids or assists any alien inadmissible
8 under section 212(a)(2) of the Immigration and Nationality
9 Act (insofar as an alien inadmissible under such section has
10 been convicted of an aggravated felony) or 212(a)(3) of such
11 Act (other than subparagraph (E) thereof) to enter the United
12 States, or who connives or conspires with any person or persons
13 to allow, procure, or permit any such alien to enter the United
14 States, shall be or imprisoned not more than 10 years.

15 **“§ 322. Increased penalty for certain terrorism re-**
16 **lated offenses**

17 “Whoever violates this subchapter shall, if the maximum im-
18 prisonment for the offense is less but for this section, be im-
19 prisoned not more than 25 years if the offense was committed
20 to facilitate an act of international terrorism (as defined in sec-
21 tion 2331 of this title), and 20 years (if the offense was com-
22 mitted to facilitate a drug trafficking crime (as defined in sec-
23 tion 592).

24 **“CHAPTER 17—DRUG CRIMES**

“Sec.

“401. Definitions for chapter.

“402. Basic offenses.

“403. Basic punishment structure.

“404. Offenses involving protected persons.

“405. Enhancement for offenses involving protected places.

“406. Maintaining drug-involved premises.

“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
substances.

“413. Continuing criminal enterprise.

“414. Drug paraphernalia.

“415. Proceedings to establish prior convictions.

“416. Anhydrous ammonia.

“417. Controlled substances import and export offenses.

“418. Prohibited acts related to foreign terrorist organizations or terrorist persons and groups

1 **“§ 401. Definitions for chapter**

2 “As used in this chapter—

3 “(1) a term defined for the purposes of the Controlled
4 Substances Act has the same meaning in this chapter;

5 “(2) the term ‘large quantity of a major drug’ means—

6 “(A) 1 kilogram or more of a mixture or substance
7 containing a detectable amount of heroin;

8 “(B) 5 kilograms or more of a mixture or substance
9 containing a detectable amount of—

10 “(i) coca leaves, except coca leaves and extracts
11 of coca leaves from which cocaine, ecgonine, and
12 derivatives of ecgonine or their salts have been re-
13 moved;

14 “(ii) cocaine, its salts, optical and geometric iso-
15 mers, and salts of isomers;

16 “(iii) ecgonine, its derivatives, their salts, iso-
17 mers, and salts of isomers; or

18 “(iv) any compound, mixture, or preparation
19 which contains any quantity of any of the sub-
20 stances referred to in clauses (i) through (iii);

21 “(C) 50 grams or more of a mixture or substance de-
22 scribed in subparagraph (B) which contains cocaine
23 base;

24 “(D) 100 grams or more of phencyclidine (PCP) or
25 1 kilogram or more of a mixture or substance con-
26 taining a detectable amount of phencyclidine (PCP);

27 “(E) 10 grams or more of a mixture or substance
28 containing a detectable amount of lysergic acid
29 diethylamide (LSD);

30 “(F) 400 grams or more of a mixture or substance
31 containing a detectable amount of N-phenyl-N-[1-(2-
32 phenylethyl)-4-piperidinyl] propanamide or 100 grams
33 or more of a mixture or substance containing a detect-
34 able amount of any analogue of N-phenyl-N-[1-(2-
35 phenylethyl)-4-piperidinyl] propanamide;

1 “(G) 1000 kilograms or more of a mixture or sub-
2 stance containing a detectable amount of marihuana, or
3 1,000 or more marihuana plants regardless of weight;
4 or

5 “(H) 50 grams or more of methamphetamine, its
6 salts, isomers, and salts of its isomers or 500 grams or
7 more of a mixture or substance containing a detectable
8 amount of methamphetamine, its salts, isomers, or
9 salts of its isomers;

10 “(3) the term ‘substantial quantity of a major drug’
11 means—

12 “(A) 100 grams or more of a mixture or substance
13 containing a detectable amount of heroin;

14 “(B) 500 grams or more of a mixture or substance
15 containing a detectable amount of—

16 “(i) coca leaves, except coca leaves and extracts
17 of coca leaves from which cocaine, ecgonine, and
18 derivatives of ecgonine or their salts have been re-
19 moved;

20 “(ii) cocaine, its salts, optical and geometric iso-
21 mers, and salts of isomers;

22 “(iii) ecgonine, its derivatives, their salts, iso-
23 mers, and salts of isomers; or

24 “(iv) any compound, mixture, or preparation
25 which contains any quantity of any of the sub-
26 stances referred to in clauses (i) through (iii);

27 “(C) 5 grams or more of a mixture or substance de-
28 scribed in subparagraph (B) which contains cocaine
29 base;

30 “(D) 10 grams or more of phencyclidine (PCP) or
31 100 grams or more of a mixture or substance con-
32 taining a detectable amount of phencyclidine (PCP);

33 “(E) 1 gram or more of a mixture or substance con-
34 taining a detectable amount of lysergic acid
35 diethylamide (LSD);

36 “(F) 40 grams or more of a mixture or substance
37 containing a detectable amount of N-phenyl-N-[1-(2-

1 phenylethyl)-4-piperidinyl] propanamide or 10 grams or
 2 more of a mixture or substance containing a detectable
 3 amount of any analogue of N-phenyl-N-[1-(2-
 4 phenylethyl)-4-piperidinyl] propanamide;

5 “(G) 100 kilograms or more of a mixture or sub-
 6 stance containing a detectable amount of marihuana, or
 7 100 or more marihuana plants regardless of weight; or

8 “(H) 5 grams or more of methamphetamine, its
 9 salts, isomers, and salts of its isomers or 50 grams or
 10 more of a mixture or substance containing a detectable
 11 amount of methamphetamine, its salts, isomers, or
 12 salts of its isomers;

13 “(4) the term ‘date rape drug’ means gamma hydroxy-
 14 butyric acid (including when scheduled as an approved drug
 15 product for purposes of section 3(a)(1)(B) of the Hillory J.
 16 Farias and Samantha Reid Date-Rape Drug Prohibition
 17 Act of 2000), or 1 gram of flunitrazepam;

18 “(5) the term ‘repeat offender’ means a person is con-
 19 victed under this chapter after a prior conviction for a fel-
 20 ony drug offense;

21 “(6) the term ‘career offender’ means a person is con-
 22 victed under this chapter after two or more prior convic-
 23 tions for a felony drug offense;

24 “(7) the term ‘midlevel quantity of marijuana’ means 50
 25 kilograms of marijuana or more than 50 marijuana plants;
 26 and

27 “(8) the term ‘larger quantity of hashish’ means ten
 28 kilograms of hashish or one kilogram of hashish oil.

29 **“§ 402. Basic offenses**

30 “Except as authorized by the Controlled Substances Act
 31 whoever knowingly—

32 “(1) manufactures, distributes, or dispenses, or possesses
 33 with intent to manufacture, distribute, or dispense, a con-
 34 trolled substance;

35 “(2) creates, distributes, or dispenses, or possesses with
 36 intent to distribute or dispense, a counterfeit substance;

1 “(3) imports or exports a controlled substance in viola-
 2 tion of section 1002, 1003, or 1007 of the Controlled Sub-
 3 stances Import and Export Act;

4 “(4) brings or possesses on board a vessel, aircraft, or
 5 vehicle a controlled substance in violation of section 1005
 6 of that Act; or

7 “(5) manufactures, possesses with intent to distribute, or
 8 distributes a controlled substance contrary to section 1009
 9 of that Act;

10 shall be punished as provided in this chapter.

11 **“§ 403. Basic punishment structure**

12 “(a) LARGE QUANTITIES OF MAJOR DRUGS.—

13 “(1) PRISON.—If the violation of section 402 involves a
 14 large quantity of a major drug, the offender shall be im-
 15 prisoned any term of years not less than ten, or for life.
 16 If the offender is a repeat offender or if death or serious
 17 bodily injury results to any person from the offense, the
 18 term shall not be less than 20 years. If the defendant is
 19 a career offender, the term shall be life.

20 “(2) FINE.—An offender to whom paragraph (1) applies
 21 shall be fined not more than \$4,000,000, and if the of-
 22 fender is a career offender, not more than \$8,000,000.

23 “(3) SUPERVISED RELEASE.—An offender to whom
 24 paragraph (1) applies shall be sentenced to supervised re-
 25 lease for a period of 5 years, but if the offender is a career
 26 offender or if death or serious bodily injury results to any
 27 person from the offense, for a period of 10 years.

28 “(b) SUBSTANTIAL QUANTITIES OF MAJOR DRUGS.—

29 “(1) PRISON.—If the violation of section 402 involves a
 30 substantial quantity of a major drug, the offender shall be
 31 imprisoned not less than five years nor more than 40 years.
 32 If the offender is a repeat offender the term shall not be
 33 less than 10 years. If death or serious bodily injury results
 34 to any person from the offense, the term shall be life.

35 “(2) FINE.—An offender to whom paragraph (1) applies
 36 shall be fined not more than \$2,000,000, and if the of-
 37 fender is a career offender, not more than \$4,000,000.

1 “(3) SUPERVISED RELEASE.—An offender to whom
2 paragraph (1) applies shall be sentenced to supervised re-
3 lease for a period of 4 years, but if the offender is a repeat
4 offender or death or serious bodily injury result to any per-
5 son from the offense, for a period of 8 years.

6 “(c) LESSER QUANTITIES OF MAJOR DRUGS AND ANY
7 QUANTITY OF CERTAIN OTHER SUBSTANCES.—

8 “(1) PRISON.—If the violation of section 402 involves a
9 quantity, lesser than those specified in subsection (a) or
10 (b), of a major drug, or any quantity of another substance
11 in schedule I or II, or a date rape drug, the offender shall
12 be imprisoned not more than 20 years. If the offender is
13 a repeat offender, the term shall not be less than 30 years.
14 If death or serious bodily injury results to any person from
15 the offense, the offender shall be imprisoned any term or
16 years not less than 20, or for life.

17 “(2) FINE.—An offender to whom paragraph (1) applies
18 shall be fined not more than \$1,000,000, and if the of-
19 fender is a repeat offender, not more than \$2,000,000.

20 “(3) SUPERVISED RELEASE.—An offender to whom
21 paragraph (1) applies shall be sentence to supervised re-
22 lease for a period of 3 years, but if the defendant is a re-
23 peat offender for a period of 6 years.

24 “(d) MIDDLELEVEL QUANTITIES OF MARIJUANA, LARGER
25 QUANTITIES OF HASHISH, AND CERTAIN SCHEDULE III SUB-
26 STANCES.—

27 “(1) PRISON.—If the violation of section 402 involves a
28 midlevel quantity of marijuana, a larger quantity of hash-
29 ish, or any quantity of a schedule III substance for which
30 a penalty is not imposed in a previous subsection of this
31 section, the offender shall be imprisoned not more than five
32 years, or if a repeat offender, not more than 10 years.

33 “(2) FINE.—An offender to whom paragraph (1) applies
34 shall be fined not more than \$250,000 and if the offender
35 is a career offender, not more than \$500,000.

36 “(3) SUPERVISED RELEASE.—An offender to whom
37 paragraph (1) applies shall be sentenced to supervised re-

1 lease for a period of 2 years, but if the defendant is a re-
2 peat offender, for a period of 4 years.

3 “(e) SCHEDULE IV SUBSTANCES.—If the violation of section
4 402 involves a schedule IV substance, the offender shall be im-
5 prisoned not more than three years and to supervised release
6 for one year. If the offender is a repeat offender, the offender
7 shall be fined not more than \$500,000 or imprisoned not more
8 than six years, or both, and shall be sentenced to supervised
9 release for two years.

10 “(f) SCHEDULE V SUBSTANCES.—If the violation of section
11 402 involves a schedule V substance, the offender shall be im-
12 prisoned not more than one year. If the offender is a repeat
13 offender, the offender shall be imprisoned not more than two
14 years.

15 **“§ 404. Offenses involving protected persons**

16 “(a) DISTRIBUTION WITH INTENT TO COMMIT A CRIME OF
17 VIOLENCE.—

18 “(1) IN GENERAL.—Whoever, with intent to commit a
19 crime of violence (including an offense that would also be
20 punishable under section 201 if the conduct occurred in the
21 special maritime and territorial jurisdiction of the United
22 States), against an individual, violates section 402 by dis-
23 tributing a controlled substance or controlled substance
24 analogue to that individual without that individual’s knowl-
25 edge shall be imprisoned not more than 20 years.

26 “(2) DEFINITION.—As used in this subsection, the term
27 ‘without that individual’s knowledge’ means that the indi-
28 vidual is unaware that a substance with the ability to alter
29 that individual’s ability to appraise conduct or to decline
30 participation in or communicate unwillingness to partici-
31 pate in conduct is administered to the individual.

32 “(b) ENDANGERING HUMAN LIFE WHILE ILLEGALLY MAN-
33 UFACTURING CONTROLLED SUBSTANCE.—Whoever, while man-
34 ufacturing a controlled substance in violation of the Controlled
35 Substances Act, or attempting or conspiring to do so, or trans-
36 porting materials, including chemicals, to do so, knowingly cre-

1 ates a risk of harm to human life shall be imprisoned not more
2 than ten years.

3 “(c) DISTRIBUTION TO MINORS.—

4 “(1) FIRST OFFENSES.—Except as provided in section
5 405 and in paragraph (2), any person at least 18 years of
6 age who violates section 402 by distributing a controlled
7 substance to a person under 21 years of age is subject to
8 (A) twice the maximum punishment authorized by section
9 403, and (B) at least twice any term of supervised release
10 authorized by section 403, for a first offense involving the
11 same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by
12 section 403, a term of imprisonment under this subsection
13 shall be not less than one year. The mandatory minimum
14 sentencing provisions of this subsection shall not apply to
15 offenses involving 5 grams or less of marihuana.

16 “(2) SECOND AND SUBSEQUENT OFFENSES.—Except as
17 provided in section 405, if the offender under paragraph
18 (1) has a prior conviction under paragraph (1) (or under
19 section 303(b)(2) of the Federal Food, Drug, and Cosmetic
20 Act as in effect prior to the effective date of section 701(b)
21 of the Controlled Substances Act) is subject to (A) three
22 times the maximum punishment authorized by section 403,
23 and (B) at least three times any term of supervised release
24 authorized by section 403, for a second offense or subse-
25 quent offense involving the same controlled substance and
26 schedule. Except to the extent a greater minimum sentence
27 is otherwise provided by section 403, a term of imprison-
28 ment under this subsection shall be not less than one year.
29 Penalties for third and subsequent convictions shall those
30 provided by section 403(a) for offenses involving large
31 quantities of major drugs under that section.

32 “(d) ADULTS USING CHILDREN.—Whoever, being at least 21
33 years of age, knowingly—

34 “(1) employs, hires, uses, persuades, induces, entices, or
35 coerces a child to violate section 402; or
36

1 “(2) employs, hires, uses, persuades, induces, entices, or
2 coerces a child to assist in avoiding detection or apprehen-
3 sion, for any offense under section 402, by any Federal,
4 State, or local law enforcement official,
5 is punishable by a term of imprisonment and a fine, or both,
6 up to triple those authorized by section 403.

7 “(e) YOUNG ADULTS USING CHILDREN.—

8 “(1) Whoever, not being a child, knowingly—

9 “(A) employs, hires, uses, persuades, induces, en-
10 tices, or coerces, a child to violate any provision of this
11 chapter or of the Controlled Substances Act or the
12 Controlled Substances Import and Export Act;

13 “(B) employs, hires, uses, persuades, induces, en-
14 tices, or coerces, child to assist in avoiding detection or
15 apprehension, for any such violation, by any Federal,
16 State, or local law enforcement official; or

17 “(C) receives a controlled substance from a child,
18 other than an immediate family member, in violation of
19 section 402;

20 shall be imprisoned for up to twice the maximum term other-
21 wise authorized, or fined up to twice the fine otherwise author-
22 ized, or both, and be sentenced at least twice any term of su-
23 pervised release otherwise authorized for a first offense. Except
24 to the extent a greater minimum sentence is otherwise pro-
25 vided, a term of imprisonment under this subsection shall not
26 be less than one year.

27 “(2) Whoever violates paragraph (1) after a prior convic-
28 tion under paragraph (1) of this section, is punishable by
29 a term of imprisonment up to three times that otherwise
30 authorized, or both, and at least three times any term of
31 supervised release otherwise authorized for a first offense.
32 Except to the extent a greater minimum sentence is other-
33 wise provided, a term of imprisonment under this sub-
34 section shall not be less than one year. Penalties for third
35 and subsequent convictions shall those provided by section
36 403(a) for offenses involving large quantities of major
37 drugs under that section.

1 “(f) PROVIDING CONTROLLED SUBSTANCES TO CHIL-
2 DREN.—Whoever violates subsection (c) or (d)—

3 “(1) by knowingly providing or distributing a controlled
4 substance or a controlled substance analogue to a child; or

5 “(2) if the person employed, hired, or used is 14 years
6 of age or younger;

7 shall be subject to a term of imprisonment for not more than
8 five years, in addition to any other punishment authorized by
9 this chapter.

10 “(g) PREGNANT PERSONS.—Except as authorized by the
11 Controlled Substances Act, it shall be unlawful for any person
12 to knowingly or intentionally provide or distribute any con-
13 trolled substance to a pregnant individual in violation of any
14 provision of this title. Any person who violates this subsection
15 shall be subject to the same penalties as are provided for a vio-
16 lation of subsection (c).

17 **“§ 405. Enhancement for offenses involving pro-**
18 **tected places**

19 “(a) CULTIVATION ON FEDERAL PROPERTY.—The maximum
20 fine that may be imposed for a violation of section 402 by culti-
21 vating a controlled substance on Federal property shall be the
22 greater of the amount otherwise provided in this chapter or—

23 “(1) \$500,000 if the defendant is an individual; or

24 “(2) \$1,000,000 if the defendant is other than an indi-
25 vidual.

26 “(b) USE OF HAZARDOUS SUBSTANCE ON FEDERAL
27 LAND.—Whoever in the course of a violation of section 402
28 knowingly uses a poison, chemical, or other hazardous sub-
29 stance on Federal land, and, by such use—

30 “(1) creates a serious hazard to humans, wildlife, or do-
31 mestic animals,

32 “(2) degrades or harms the environment or natural re-
33 sources, or

34 “(3) pollutes an aquifer, spring, stream, river, or body of
35 water,

36 or attempt or conspires to do so shall be imprisoned not more
37 than five years.

1 “(c) BOOBYTRAPS.—

2 “(1) Whoever knowingly assembles, maintains, or places a
3 boobytrap on Federal property where a controlled sub-
4 stance is being manufactured, distributed, or dispensed, or
5 attempts or conspires to do so, shall be imprisoned not
6 more than ten years.

7 “(2) If the offender has one or more prior convictions for
8 an offense under this subsection, the offender shall be im-
9 prisoned not more than 20 years.

10 “(3) As used in this subsection, the term ‘boobytrap’
11 means any concealed or camouflaged device designed to
12 cause bodily injury when triggered by any action of any
13 unsuspecting person making contact with the device. Such
14 term includes guns, ammunition, or explosive devices at-
15 tached to trip wires or other triggering mechanisms, sharp-
16 ened stakes, and lines or wires with hooks attached.

17 “(d) SAFETY REST AREAS.—

18 “(1) ENHANCEMENT.—Whoever violates section 402 by
19 distributing or possessing with intent to distribute a con-
20 trolled substance in or on, or within 1,000 feet of, a truck
21 stop or safety rest area is subject to—

22 “(A) in the case of a first offense under this sub-
23 section subject to—

24 “(i) twice the maximum punishment provided in
25 section 403; and

26 “(ii) twice any term of supervised release author-
27 ized by section 403 for a first offense; and

28 “(B) in the case of an offense under this subsection
29 after a prior conviction under this subsection—

30 “(i) three times the maximum punishment au-
31 thorized by section 403; and

32 “(ii) three times any term of supervised release
33 authorized by section 403 for a first offense.

34 “(2) DEFINITIONS.—As used in this subsection—

35 “(A) the term ‘safety rest area’ means a roadside fa-
36 cility with parking facilities for the rest or other needs
37 of motorists; and

1 “(B) the term ‘truck stop’ means a facility (including
2 any parking lot appurtenant thereto) that—

3 “(i) has the capacity to provide fuel or service,
4 or both, to any commercial motor vehicle (as de-
5 fined in section 31301 of title 49, United States
6 Code), operating in commerce (as defined in that
7 section); and

8 “(ii) is located within 2,500 feet of the National
9 System of Interstate and Defense Highways or the
10 Federal-Aid Primary System.

11 **“§ 406. Maintaining drug-involved premises.**

12 “(a) Except as authorized by this title, it shall be unlawful
13 to—

14 “(1) knowingly open, lease, rent, use, or maintain any
15 place, whether permanently or temporarily, for the purpose
16 of manufacturing, distributing, or using any controlled sub-
17 stance; or

18 “(2) manage or control any place, whether permanently
19 or temporarily, either as an owner, lessee, agent, employee,
20 occupant, or mortgagee, and knowingly and intentionally
21 rent, lease, profit from, or make available for use, with or
22 without compensation, the place for the purpose of unlaw-
23 fully manufacturing, storing, distributing, or using a con-
24 trolled substance.

25 “(b) Any person who violates subsection (a) of this section
26 shall be sentenced to a term of imprisonment of not more than
27 20 years or a fine of not more than \$500,000, or both, or a
28 fine of \$2,000,000 for a person other than an individual.

29 “(c) A violation of subsection (a) shall be considered an of-
30 fense against property for purposes of section
31 3663A(c)(1)(A)(ii) of title 18, United States Code.

32 “(d)(1) Any person who violates subsection (a) shall be sub-
33 ject to a civil penalty of not more than the greater of—

34 “(A) \$250,000; or

35 “(B) 2 times the gross receipts, either known or esti-
36 mated, that were derived from each violation that is attrib-
37 utable to the person.

1 “(2) If a civil penalty is calculated under paragraph (1)(B),
 2 and there is more than 1 defendant, the court may apportion
 3 the penalty between multiple violators, but each violator shall
 4 be jointly and severally liable for the civil penalty under this
 5 subsection.

6 “(e) Any person who violates subsection (a) shall be subject
 7 to declaratory and injunctive remedies as set forth in section
 8 403(f) of the Controlled Substances Act.

9 **“§ 407. Distribution in or near schools**

10 “(a) IN GENERAL.—Whoever violates section 402 by distrib-
 11 uting, possessing with intent to distribute, or manufacturing a
 12 controlled substance in or on, or within one thousand feet of,
 13 the real property comprising a public or private elementary, vo-
 14 cational, or secondary school or a public or private college, jun-
 15 ior college, or university, or a playground, or housing facility
 16 owned by a public housing authority, or within 100 feet of a
 17 public or private youth center, public swimming pool, or video
 18 arcade facility, is (except as provided in subsection (b)) subject
 19 to—

20 “(1) twice the maximum punishment authorized by sec-
 21 tion 403; and

22 “(2) at least twice any term of supervised release author-
 23 ized by section 403 for a first offense.

24 A fine up to twice that authorized by section 403 may be im-
 25 posed in addition to any term of imprisonment authorized by
 26 this subsection. Except to the extent a greater minimum sen-
 27 tence is otherwise provided by section 403, a person shall be
 28 sentenced under this subsection to a term of imprisonment of
 29 not less than one year. The mandatory minimum sentencing
 30 provisions of this paragraph shall not apply to offenses involv-
 31 ing 5 grams or less of marihuana.

32 “(b) SECOND OR SUBSEQUENT OFFENSES.—Whoever vio-
 33 lates subsection (a) after a prior conviction under subsection
 34 (a) is punishable—

35 “(1) by the greater of—

36 “(A) a term of imprisonment of not less than three
 37 years and not more than life imprisonment; or

1 “(B) three times the maximum punishment author-
2 ized by section 403 for a first offense; and

3 “(2) at least three times any term of supervised release
4 authorized by section 403 for a first offense.

5 “A fine up to three times that authorized by section 403 may
6 be imposed in addition to any term of imprisonment authorized
7 by this subsection. Except to the extent a greater minimum
8 sentence is otherwise provided by section 401(b), a person shall
9 be sentenced under this subsection to a term of imprisonment
10 of not less than three years. Penalties for third and subsequent
11 convictions shall be governed by section 403.

12 “(c) SPECIAL RULE FOR USING CHILDREN.—Notwith-
13 standing any other law, whoever, being at least 21 years of age,
14 knowingly—

15 “(1) employs, hires, uses, persuades, induces, entices, or
16 coerces a child to violate this section; or

17 “(2) employs, hires, uses, persuades, induces, entices, or
18 coerces a child to assist in avoiding detection or apprehen-
19 sion for any offense under this section by any Federal,
20 State, or local law enforcement official,

21 is punishable by a term of imprisonment, a fine, or both, up
22 to triple those authorized by section 403.

23 “(d) SPECIAL RULE FOR MANDATORY MINIMUM SEN-
24 TENCES.—In the case of any mandatory minimum sentence im-
25 posed under subsection (b), imposition or execution of such
26 sentence shall not be suspended and probation shall not be
27 granted. An individual convicted under this section shall not be
28 eligible for parole until the individual has served the mandatory
29 minimum term of imprisonment as provided by this section.

30 “(e) DEFINITIONS.—As used in this section—

31 “(1) the term ‘playground’ means any outdoor facility
32 (including any parking lot appurtenant thereto) intended
33 for recreation, open to the public, and with any portion
34 thereof containing three or more separate apparatus in-
35 tended for the recreation of children including, but not lim-
36 ited to, sliding boards, swingsets, and teeterboards;

1 “(2) the term ‘youth center’ means any recreational fa-
2 cility and/or gymnasium (including any parking lot appur-
3 tenant thereto), intended primarily for use by persons
4 under 18 years of age, which regularly provides athletic,
5 civic, or cultural activities;

6 “(3) the term ‘video arcade facility’ means any facility,
7 legally accessible to children, intended primarily for the use
8 of pinball and video machines for amusement containing a
9 minimum of ten machines that are either pinball or video
10 machines; and

11 “(4) the term ‘swimming pool’ includes any parking lot
12 appurtenant thereto.

13 **“§ 408. Listed chemicals**

14 “(a) OFFENSE.—Whoever knowingly—

15 “(1) possesses a listed chemical with intent to manufac-
16 ture a controlled substance except as authorized by the
17 Controlled Substances Act;

18 “(2) possesses or distributes, a listed chemical knowing,
19 or having reasonable cause to believe, that the listed chem-
20 ical will be used to manufacture a controlled substance ex-
21 cept as authorized by the Controlled Substances Act; or

22 “(3) with the intent of causing the evasion of the record-
23 keeping or reporting requirements of section 310 of the
24 Controlled Substances Act, or the regulations issued under
25 that section, receives or distributes a reportable amount of
26 any listed chemical in units small enough so that the mak-
27 ing of records or filing of reports under that section is not
28 required;

29 shall be imprisoned not more than 20 years in the case of a
30 violation of paragraph (1) or (2) involving a list I chemical or
31 not more than 10 years in any other case.

32 “(b) INJUNCTIONS.—In addition to any other applicable pen-
33 alty, any person convicted of a felony violation of this section
34 relating to the receipt, distribution, manufacture, exportation,
35 or importation of a listed chemical may be enjoined from en-
36 gaging in any transaction involving a listed chemical for not
37 more than ten years.

1 “(c) ADDITIONAL OFFENSES.—

2 “(1) Whoever knowingly distributes a listed chemical in
3 violation of the Controlled Substances Act (other than in
4 violation of a recordkeeping or reporting requirement of
5 section 310), or attempts or conspires to do so, shall be im-
6 prisoned not more than 5 years.

7 “(2) Whoever knowingly possesses any listed chemical,
8 with knowledge that the recordkeeping or reporting require-
9 ments of section 310 of such Act have not been adhered
10 to, if, after such knowledge is acquired, such person does
11 not take immediate steps to remedy the violation, or at-
12 tempts or conspires to do so, shall be imprisoned not more
13 than one year.

14 **“§ 409. Domestic regulatory offenses**

15 “(a) UNLAWFUL CONDUCT GENERALLY.—It shall be unlaw-
16 ful for any person—

17 “(1) who is subject to the requirements of part C of the
18 Controlled Substances Act to distribute or dispense a con-
19 trolled substance in violation of section 309 of that Act;

20 “(2) who is a registrant to distribute or dispense a con-
21 trolled substance not authorized by his registration to an-
22 other registrant or other authorized person or to manufac-
23 ture a controlled substance not authorized by his registra-
24 tion;

25 “(3) who is a registrant to distribute a controlled sub-
26 stance in violation of section 305 of the Controlled Sub-
27 stances Act;

28 “(4) to remove, alter, or obliterate a symbol or label re-
29 quired by section 305 of the Controlled Substances Act;

30 “(5) to refuse or negligently fail to make, keep, or fur-
31 nish any record, report, notification, declaration, order or
32 order form, statement, invoice, or information required
33 under the Controlled Substances Act or the Controlled Sub-
34 stances Import and Export Act;

35 “(6) to refuse any entry into any premises or inspection
36 authorized by the Controlled Substances Act or the Con-
37 trolled Substances Import and Export Act;

1 “(7) to remove, break, injure, or deface a seal placed
2 upon controlled substances pursuant to section 304(f) or
3 511 of the Controlled Substances Act or to remove or dis-
4 pose of substances so placed under seal;

5 “(8) to use, to his own advantage, or to reveal, other
6 than to duly authorized officers or employees of the United
7 States, or to the courts when relevant in any judicial pro-
8 ceeding under this title or title III, any information ac-
9 quired in the course of an inspection authorized by the
10 Controlled Substances Act concerning any method or proc-
11 ess which as a trade secret is entitled to protection, or to
12 use to his own advantage or reveal (other than as author-
13 ized by section 310 of that Act) any information that is
14 confidential under such section;

15 “(9) who is a regulated person to engage in a regulated
16 transaction without obtaining the identification required by
17 310(a)(3) of the Controlled Substances Act;

18 “(10) negligently to fail to keep a record or make a re-
19 port under section 310 of that Act; or

20 “(11) to distribute a laboratory supply to a person who
21 uses, or attempts to use, that laboratory supply to manu-
22 facture a controlled substance or a listed chemical, in viola-
23 tion of the Controlled Substances Act or the Controlled
24 Substances Import and Export Act, with reckless disregard
25 for the illegal uses to which such a laboratory supply will
26 be put.

27 “(b) DEFINITION.—As used in subsection (a)(11), the term
28 ‘laboratory supply’ means a listed chemical or any chemical,
29 substance, or item on a special surveillance list published by
30 the Attorney General, which contains chemicals, products, ma-
31 terials, or equipment used in the manufacture of controlled
32 substances and listed chemicals. For purposes of that sub-
33 section, there is a rebuttable presumption of reckless disregard
34 at trial if the Attorney General notifies a firm in writing that
35 a laboratory supply sold by the firm, or any other person or
36 firm, has been used by a customer of the notified firm, or dis-
37 tributed further by that customer, for the unlawful production

1 of controlled substances or listed chemicals a firm distributes
2 and 2 weeks or more after the notification the notified firm dis-
3 tributes a laboratory supply to the customer.

4 “(c) SCHEDULE I AND II SUBSTANCES.—It shall be unlawful
5 for any person who is a registrant to manufacture a controlled
6 substance in schedule I or II which is—

7 “(1) not expressly authorized by the registration and by
8 a quota assigned to that registrant pursuant to section 306
9 of the Controlled Substances Act; or

10 “(2) in excess of a quota assigned to that registrant pur-
11 suant to section 306.

12 “(d)(1)(A) Except as provided in subparagraph (B) of this
13 paragraph and paragraph (2), any person who violates this sec-
14 tion shall, with respect to any such violation, be subject to a
15 civil penalty of not more than \$25,000.

16 “(B) In the case of a violation of paragraph (5) or (10) of
17 subsection (a), the civil penalty shall not exceed \$10,000.

18 “(2)(A) Whoever knowingly violates, or attempts or conspires
19 to violate, this section shall, except as otherwise provided in
20 subparagraph (B), be imprisoned not more than one year.

21 “(B) If a violation referred to in subparagraph (A) was com-
22 mitted after one or more prior convictions of the offender for
23 an offense punishable under this paragraph (2), or for a crime
24 under any other provision of any law of the United States re-
25 lating to controlled substances, narcotic drugs, marihuana, or
26 depressant or stimulant substances, have become final, such
27 person shall be sentenced to a term of imprisonment of not
28 more than 2 years.

29 “(C) In addition to the penalties set forth elsewhere in this
30 title, any business that violates paragraph (11) of subsection
31 (a) shall, with respect to the first such violation, be subject to
32 a civil penalty of not more than \$250,000, but shall not be sub-
33 ject to criminal penalties under this section, and shall, for any
34 succeeding violation, be subject to a civil fine of not more than
35 \$250,000 or double the last previously imposed penalty, which-
36 ever is greater.

1 “(3) Except under the conditions specified in paragraph (2)
2 of this subsection, a violation of this section does not constitute
3 a crime, and a judgment for the United States and imposition
4 of a civil penalty pursuant to paragraph (1) shall not give rise
5 to any disability or legal disadvantage based on conviction for
6 a criminal offense.

7 **“§ 410. Additional domestic regulatory offenses**

8 “(a) GENERALLY.—It shall be unlawful for any person know-
9 ingly—

10 “(1) as a registrant to distribute a controlled substance
11 classified in schedule I or II, in the course of legitimate
12 business, except pursuant to an order or an order form as
13 required by section 308 of the Controlled Substances Act;

14 “(2) to use in the course of the manufacture, distribu-
15 tion, or dispensing of a controlled substance, or to use for
16 the purpose of acquiring or obtaining a controlled sub-
17 stance, a registration number which is fictitious, revoked,
18 suspended, expired, or issued to another person;

19 “(3) to acquire or obtain possession of a controlled sub-
20 stance by misrepresentation, fraud, forgery, deception, or
21 subterfuge;

22 “(4)(A) to furnish false or fraudulent material informa-
23 tion in, or omit any material information from, any applica-
24 tion, report, record, or other document required to be
25 made, kept, or filed under this chapter, the Controlled Sub-
26 stances Act, or the Controlled Substances Import and Ex-
27 port Act, or (B) to present false or fraudulent identification
28 where the person is receiving or purchasing a listed chem-
29 ical and the person is required to present identification
30 under section 310(a) of the Controlled Substances Act;

31 “(5) to make, distribute, or possess any punch, die,
32 plate, stone, or other thing designed to print, imprint, or
33 reproduce the trademark, trade name, or other identifying
34 mark, imprint, or device of another or any likeness of any
35 of the foregoing upon any drug or container or labeling
36 thereof so as to render such drug a counterfeit substance;

1 “(6) to possess any three-neck round-bottom flask,
2 tableting machine, encapsulating machine, or gelatin cap-
3 sule, or any equipment, chemical, product, or material
4 which may be used to manufacture a controlled substance
5 or listed chemical, knowing, intending, or having reasonable
6 cause to believe, that it will be used to manufacture a con-
7 trolled substance or listed chemical in violation of this title,
8 the Controlled Substances Act, or the Controlled Sub-
9 stances Import and Export Act;

10 “(7) to manufacture, distribute, export, or import any
11 three-neck round-bottom flask, tableting machine, encap-
12 sulating machine, or gelatin capsule, or any equipment,
13 chemical, product, or material which may be used to manu-
14 facture a controlled substance or listed chemical, knowing,
15 intending, or having reasonable cause to believe, that it will
16 be used to manufacture a controlled substance or listed
17 chemical in violation of this title, the Controlled Substances
18 Act, or the Controlled Substances Import and Export Act
19 or, in the case of an exportation, in violation of this title,
20 the Controlled Substances Act, the Controlled Substances
21 Import and Export Act, or of the laws of the country to
22 which it is exported;

23 “(8) to create a chemical mixture for the purpose of
24 evading a requirement of section 310 of the Controlled
25 Substances Act or to receive a chemical mixture created for
26 that purpose; or

27 “(9) to distribute, import, or export a list I chemical
28 without the registration required by the Controlled Sub-
29 stances Act or the Controlled Substances Import and Ex-
30 port Act.

31 “(b) USE OF COMMUNICATION FACILITY.—

32 “(1) It shall be unlawful for any person knowingly or in-
33 tentionally to use any communication facility in committing
34 or in causing or facilitating the commission of any felony
35 under this chapter or the Controlled Substances Act or the
36 Controlled Substances Import and Export Act.

1 “(2) Each separate use of a communication facility shall
2 be a separate offense under this subsection.

3 “(3) As used in this subsection, the term ‘communication
4 facility’ means any and all public and private instrumental-
5 ities used or useful in the transmission of writing, signs,
6 signals, pictures, or sounds of all kinds and includes mail,
7 telephone, wire, radio, and all other means of communica-
8 tion.

9 “(c) ADVERTISING.—

10 “(1) It shall be unlawful for any person to place in any
11 newspaper, magazine, handbill, or other publications, any
12 written advertisement knowing that it has the purpose of
13 seeking or offering illegally to receive, buy, or distribute a
14 schedule I controlled substance.

15 “(2) As used in this subsection the term ‘advertisement’
16 includes, in addition to its ordinary meaning, such adver-
17 tisements as those for a catalog of schedule I controlled
18 substances and any similar written advertisement that has
19 the purpose of seeking or offering illegally to receive, buy,
20 or distribute a schedule I controlled substance. The term
21 ‘advertisement’ does not include material which merely ad-
22 vocates the use of a similar material, which advocates a po-
23 sition or practice, and does not attempt to propose or facili-
24 tate an actual transaction in a schedule I controlled sub-
25 stance.

26 “(d) PENALTIES.—

27 “(1) Except as provided in paragraph (2), whoever know-
28 ingly violates this section shall be imprisoned not more
29 than 4 years; except that if any person commits such a vio-
30 lation after being convicted for a felony under any law of
31 the United States relating to controlled substances, nar-
32 cotic drugs, marihuana, or depressant or stimulant sub-
33 stances, such person shall be sentenced to a term of impris-
34 onment of not more than 8 years.

35 “(2) Whoever, with the intent to manufacture or to fa-
36 cilitate the manufacture of methamphetamine, violates
37 paragraph (6) or (7) of subsection (a), shall be imprisoned

1 not more than 10 years; except that if any person commits
2 such a violation after one or more prior convictions of that
3 persons for a violation of any law of the United States or
4 any State relating to controlled substances or listed chemi-
5 cals, such person shall be imprisoned not more than 20
6 years.

7 “(e) INJUNCTION RELATING TO ENGAGING IN TRANS-
8 ACTIONS.— In addition to any other applicable penalty, any
9 person convicted of a felony violation of this section relating to
10 the receipt, distribution, manufacture, exportation, or importa-
11 tion of a listed chemical may be enjoined from engaging in any
12 transaction involving a listed chemical for not more than ten
13 years.

14 “(f) DECLARATORY AND OTHER RELIEF.—

15 “(1) In addition to any penalty provided in this section,
16 the Attorney General is authorized to commence a civil ac-
17 tion for appropriate declaratory or injunctive relief relating
18 to a violation of this section, section 402, or section 406.

19 “(2) Any action under this subsection may be brought in
20 the district court of the United States for the district in
21 which the defendant is located or resides or is doing busi-
22 ness.

23 “(3) Any order or judgment issued by the court pursuant
24 to this subsection shall be tailored to restrain the violation.

25 “(4) The court shall proceed as soon as practicable to
26 the hearing and determination of such an action. An action
27 under this subsection is governed by the Federal Rules of
28 Civil Procedure except that, if an indictment has been re-
29 turned against the respondent, discovery is governed by the
30 Federal Rules of Criminal Procedure.

31 **“§ 411. Penalty for simple possession**

32 “(a) ELEMENTS OF OFFENSE.—It shall be unlawful for any
33 person knowingly—

34 “(1) to possess a controlled substance unless such sub-
35 stance was obtained directly, or pursuant to a valid pre-
36 scription or order, from a practitioner acting in the course
37 of professional practice, or except as otherwise authorized

1 by the Controlled Substances Act or the Controlled Sub-
2 stances Import and Export Act; or

3 “(2) to possess any list I chemical obtained pursuant to
4 or under authority of a registration issued to that person
5 under section 303 of the Controlled Substances Act or sec-
6 tion 1008 of the Controlled Substances Import and Export
7 Act, if that registration has been revoked or suspended, if
8 that registration has expired, or if the registrant has ceased
9 to do business in the manner contemplated by his registra-
10 tion.

11 “(b) PUNISHMENT.—

12 “(1) GENERALLY.—Whoever violates subsection (a) shall
13 be imprisoned not more than 1 year, except that the of-
14 fense is after a prior conviction of the offender under the
15 Controlled Substances Act or the Controlled Substances
16 Import and Export Act, or for any drug, narcotic, or chem-
17 ical offense chargeable under the law of any State, the of-
18 fender shall be imprisoned not less than 15 days nor more
19 than 2 years, and shall be fined a minimum of \$2,500, and
20 if the offense is after two or more such convictions, the of-
21 fender shall be sentenced to a term of imprisonment for not
22 less than 90 days but not more than 3 years, and shall be
23 fined a minimum of \$5,000.

24 “(2) COCAINE BASE.—Notwithstanding paragraph (a), a
25 person convicted under this section for the possession of a
26 mixture or substance which contains cocaine base shall be
27 imprisoned not less than 5 years and not more than 20
28 years, and fined a minimum of \$1,000, if the conviction is
29 a first conviction under this subsection and the amount of
30 the mixture or substance exceeds 5 grams, if the conviction
31 is after a prior conviction for the possession of such a mix-
32 ture or substance under this subsection becomes final and
33 the amount of the mixture or substance exceeds 3 grams,
34 or if the conviction is after 2 or more prior convictions for
35 the possession of such a mixture or substance under this
36 subsection become final and the amount of the mixture or
37 substance exceeds 1 gram.

1 “(3) FLUNITRAZEPAM.—Notwithstanding any penalty
2 provided in this subsection, any person convicted under this
3 subsection for the possession of flunitrazepam shall be im-
4 prisoned for not more than 3 years, shall be fined as other-
5 wise provided in this section, or both. The imposition or
6 execution of a minimum sentence required to be imposed
7 under this subsection shall not be suspended or deferred.

8 “(4) COSTS.—Further, upon conviction, a person who
9 violates this subsection shall be fined the reasonable costs
10 of the investigation and prosecution of the offense, includ-
11 ing the costs of prosecution of an offense as defined in sec-
12 tions 1918 and 1920 of title 28, except that this sentence
13 shall not apply and a fine under this section need not be
14 imposed if the court determines the defendant lacks the
15 ability to pay.

16 “(c) DEFINITION.—As used in this section, the term ‘drug,
17 narcotic, or chemical offense’ means any offense which pro-
18 scribes the possession, distribution, manufacture, cultivation,
19 sale, transfer, or the attempt or conspiracy to possess, dis-
20 tribute, manufacture, cultivate, sell or transfer any substance
21 the possession of which is prohibited under the Controlled Sub-
22 stances Act.

23 **“§ 412. Civil penalty for possession of small**
24 **amounts of certain controlled substances**

25 “(a) IN GENERAL.—An individual who knowingly possesses
26 a controlled substance described in section 403(a) in violation
27 of section 411 in an amount that, as specified by regulation of
28 the Attorney General, is a personal use amount shall be liable
29 to the United States for a civil penalty in an amount not to
30 exceed \$10,000.

31 “(b) INCOME AND NET ASSETS.—The income and net assets
32 of an individual shall not be relevant to the determination
33 whether to assess a civil penalty under this section or to pros-
34 ecute the individual criminally. However, in determining the
35 amount of a penalty under this section, the income and net as-
36 sets of an individual shall be considered.

1 “(c) PRIOR CONVICTION.—A civil penalty may not be as-
2 sessed under this section if the individual previously was con-
3 victed of a Federal or State offense relating to a controlled sub-
4 stance.

5 “(d) LIMITATION ON NUMBER OF ASSESSMENTS.—A civil
6 penalty may not be assessed on an individual under this section
7 on more than two separate occasions.

8 “(e) ASSESSMENT.—A civil penalty under this section may
9 be assessed by the Attorney General only by an order made on
10 the record after opportunity for a hearing in accordance with
11 section 554 of title 5. The Attorney General shall provide writ-
12 ten notice to the individual who is the subject of the proposed
13 order informing the individual of the opportunity to receive
14 such a hearing with respect to the proposed order. The hearing
15 may be held only if the individual makes a request for the hear-
16 ing before the expiration of the 30-day period beginning on the
17 date such notice is issued.

18 “(f) COMPROMISE.—The Attorney General may compromise,
19 modify, or remit, with or without conditions, any civil penalty
20 imposed under this section.

21 “(g) JUDICIAL REVIEW.—If the Attorney General issues an
22 order pursuant to subsection (e) after a hearing described in
23 such subsection, the individual who is the subject of the order
24 may, before the expiration of the 30-day period beginning on
25 the date the order is issued, bring a civil action in the appro-
26 priate district court of the United States. In such action, the
27 law and the facts of the violation and the assessment of the
28 civil penalty shall be determined de novo, and shall include the
29 right of a trial by jury, the right to counsel, and the right to
30 confront witnesses. The facts of the violation shall be proved
31 beyond a reasonable doubt.

32 “(h) CIVIL ACTION.—If an individual does not request a
33 hearing pursuant to subsection (e) and the Attorney General
34 issues an order pursuant to such subsection, or if an individual
35 does not under subsection (g) seek judicial review of such an
36 order, the Attorney General may commence a civil action in any
37 appropriate district court of the United States for the purpose

1 of recovering the amount assessed and an amount representing
 2 interest at a rate computed in accordance with section 1961 of
 3 title 28, United States Code. Such interest shall accrue from
 4 the expiration of the 30-day period described in subsection (g).
 5 In such an action, the decision of the Attorney General to issue
 6 the order, and the amount of the penalty assessed by the Attor-
 7 ney General, shall not be subject to review.

8 “(i) LIMITATION.—The Attorney General may not under this
 9 section commence proceeding against an individual after the ex-
 10 piration of the 5-year period beginning on the date on which
 11 the individual allegedly violated subsection (a).

12 “(j) EXPUNGEMENT PROCEDURES.—The Attorney General
 13 shall dismiss the proceedings under this section against an indi-
 14 vidual upon application of such individual at any time after the
 15 expiration of 3 years if—

16 “(1) the individual has not previously been assessed a
 17 civil penalty under this section;

18 “(2) the individual has paid the assessment;

19 “(3) the individual has complied with any conditions im-
 20 posed by the Attorney General;

21 “(4) the individual has not been convicted of a Federal
 22 or State offense relating to a controlled substance; and

23 “(5) the individual agrees to submit to a drug test, and
 24 such test shows the individual to be drug free.

25 A nonpublic record of a disposition under this subsection shall
 26 be retained by the Department of Justice solely for the purpose
 27 of determining in any subsequent proceeding whether the per-
 28 son qualified for a civil penalty or expungement under this sec-
 29 tion. If a record is expunged under this subsection, an indi-
 30 vidual concerning whom such an expungement has been made
 31 shall not be held thereafter under any provision of law to be
 32 guilty of perjury, false swearing, or making a false statement
 33 by reason of his failure to recite or acknowledge a proceeding
 34 under this section or the results thereof in response to an in-
 35 quiry made of him for any purpose.

36 **“§ 413. Continuing criminal enterprise**

37 “(a) ENGAGING IN ENTERPRISE.—

1 “(1) Whoever engages in a continuing criminal enterprise
2 shall be imprisoned for any term of years not less than 20,
3 or for life and fined not more than \$2,000,000.

4 “(2) If a person engages in such activity after a prior
5 conviction of that person under this section, the offender
6 shall be imprisoned any term of years not less than 30, or
7 for life, and fined not to exceed the greater of twice the
8 amount otherwise authorized in this chapter, or
9 \$4,000,000.

10 “(b) AGGRAVATED OFFENSE.—Whoever engages in a con-
11 tinuing criminal enterprise shall be imprisoned for life and
12 fined under subsection (a), if—

13 “(1) such person is the principal administrator, orga-
14 nizer, or leader of the enterprise or is one of several such
15 principal administrators, organizers, or leaders; and

16 “(2)(A) the violation referred to in subsection (c)(1) in-
17 volved at least 300 times the quantity of a substance de-
18 scribed in section 403(b); or

19 “(B) the enterprise, or any other enterprise in which the
20 defendant was the principal or one of several principal ad-
21 ministrators, organizers, or leaders, received \$10 million
22 dollars in gross receipts during any twelve-month period of
23 its existence for the manufacture, importation, or distribu-
24 tion of a substance described in section 403(b).

25 “(c) WHAT CONSTITUTES ‘ENGAGING’.—For purposes of
26 this section, a person is engaged in a continuing criminal enter-
27 prise if—

28 “(1) that person violates any provision of this chapter
29 the punishment for which is a felony, and

30 “(2) such violation is a part of a continuing series of vio-
31 lations of chapter—

32 “(A) which are undertaken by such person in concert
33 with five or more other persons with respect to whom
34 such person occupies a position of organizer, a super-
35 visory position, or any other position of management,
36 and

1 “(B) from which such person obtains substantial in-
2 come or resources.

3 “(d) SPECIAL RULE FOR SENTENCING.—In the case of any
4 sentence imposed under this section, imposition or execution of
5 such sentence shall not be suspended, probation shall not be
6 granted, and the Act of July 15, 1932 (D.C. Code, secs. 24–
7 203—24–207), shall not apply.

8 “(e) DEATH PENALTY.—

9 “(1) In addition to the other penalties set forth in this
10 section whoever—

11 “(A) while engaging in or working in furtherance of a
12 continuing criminal enterprise, or engaging in an offense
13 punishable under section 403(a) intentionally kills or coun-
14 sels, commands, induces, procures, or causes the intentional
15 killing of an individual and such killing results; and

16 “(B) during the commission of, in furtherance of, or
17 while attempting to avoid apprehension, prosecution or
18 service of a prison sentence for, a felony violation of this
19 chapter intentionally kills or counsels, commands, induces,
20 procures, or causes the intentional killing of any Federal,
21 State, or local law enforcement officer engaged in, or on ac-
22 count of, the performance of such officer’s official duties
23 and such killing results;

24 shall be imprisoned any term of year not less than 20, or for
25 life, or may be sentenced to death.

26 “(2) As used in paragraph (1)(B), the term ‘law enforcement
27 officer’ means a public servant authorized by law to conduct or
28 engage in the prevention, investigation, prosecution or adju-
29 dication of an offense, and includes those engaged in correc-
30 tions, probation, or parole functions.

31 **“§ 414. Drug paraphernalia**

32 “(a) OFFENSE.—Whoever—

33 “(1) sells or offers for sale drug paraphernalia;

34 “(2) uses a facility of interstate or foreign commerce to
35 transport drug paraphernalia; or

36 “(3) imports or exports drug paraphernalia.

37 shall be imprisoned not more than three years.

1 “(b) FORFEITURE.—Any drug paraphernalia involved in any
2 violation of subsection (a) of this section shall be subject to sei-
3 zure and forfeiture upon the conviction of a person for such
4 violation. Any such paraphernalia shall be delivered to the Ad-
5 ministrator of General Services, General Services Administra-
6 tion, who may order such paraphernalia destroyed or may au-
7 thorize its use for law enforcement or educational purposes by
8 Federal, State, or local authorities.

9 “(c) DEFINITION.—The term ‘drug paraphernalia’ means
10 any equipment, product, or material of any kind which is pri-
11 marily intended or designed for use in manufacturing,
12 compounding, converting, concealing, producing, processing,
13 preparing, injecting, ingesting, inhaling, or otherwise intro-
14 ducing into the human body a controlled substance, possession
15 of which is unlawful under the Controlled Substances Act (title
16 II of Public Law 91–513). It includes items primarily intended
17 or designed for use in ingesting, inhaling, or otherwise intro-
18 ducing marijuana, cocaine, hashish, hashish oil, PCP, meth-
19 amphetamine, or amphetamines into the human body, such
20 as—

21 “(1) metal, wooden, acrylic, glass, stone, plastic, or ce-
22 ramic pipes with or without screens, permanent screens,
23 hashish heads, or punctured metal bowls;

24 “(2) water pipes;

25 “(3) carburetion tubes and devices;

26 “(4) smoking and carburetion masks;

27 “(5) roach clips: meaning objects used to hold burning
28 material, such as a marihuana cigarette, that has become
29 too small or too short to be held in the hand;

30 “(6) miniature spoons with level capacities of one-tenth
31 cubic centimeter or less;

32 “(7) chamber pipes;

33 “(8) carburetor pipes;

34 “(9) electric pipes;

35 “(10) air-driven pipes;

36 “(11) chillums;

37 “(12) bonges;

1 “(13) ice pipes or chillers;

2 “(14) wired cigarette papers; or

3 “(15) cocaine freebase kits.

4 “(e) FACTORS WHICH MAY BE CONSIDERED.—In deter-
5 mining whether an item constitutes drug paraphernalia, in ad-
6 dition to all other logically relevant factors, the following may
7 be considered:

8 “(1) Instructions, oral or written, provided with the item
9 concerning its use.

10 “(2) Descriptive materials accompanying the item which
11 explain or depict its use.

12 “(3) National and local advertising concerning its use.

13 “(4) The manner in which the item is displayed for sale.

14 “(5) Whether the owner, or anyone in control of the
15 item, is a legitimate supplier of like or related items to the
16 community, such as a licensed distributor or dealer of to-
17 bacco products.

18 “(6) Direct or circumstantial evidence of the ratio of
19 sales of the item to the total sales of the business enter-
20 prise.

21 “(7) The existence and scope of legitimate uses of the
22 item in the community.

23 “(8) Expert testimony concerning its use.

24 “(f) EXCLUSIONS.—This section shall not apply to—

25 “(1) any person authorized by local, State, or Federal
26 law to manufacture, possess, or distribute such items; or

27 “(2) any item that, in the normal lawful course of busi-
28 ness, is imported, exported, transported, or sold through
29 the mail or by any other means, and traditionally intended
30 for use with tobacco products, including any pipe, paper, or
31 accessory.

32 **“§ 415. Proceedings to establish prior convictions**

33 “(a) FILING OF INFORMATION.—

34 “(1) No person who is convicted of an offense under this
35 chapter shall be sentenced to increased punishment by rea-
36 son of one or more prior convictions, unless before trial, or
37 before entry of a plea of guilty, the United States attorney

1 files an information with the court (and serves a copy of
2 such information on the person or counsel for the person)
3 stating in writing the previous convictions to be relied
4 upon. Upon a showing by the United States attorney that
5 facts regarding prior convictions could not with due dili-
6 gence be obtained prior to trial or before entry of a plea
7 of guilty, the court may postpone the trial or the taking of
8 the plea of guilty for a reasonable period for the purpose
9 of obtaining such facts. Clerical mistakes in the informa-
10 tion may be amended at any time prior to the pronounce-
11 ment of sentence.

12 “(2) An information may not be filed under this section
13 if the increased punishment which may be imposed is im-
14 prisonment for a term in excess of three years unless the
15 person either waived or was afforded prosecution by indict-
16 ment for the offense for which such increased punishment
17 may be imposed.

18 “(b) AFFIRMATION OR DENIAL OF PREVIOUS CONVIC-
19 TION.—If the United States attorney files an information under
20 this section, the court shall after conviction but before pro-
21 nouncement of sentence inquire of the person with respect to
22 whom the information was filed whether he affirms or denies
23 that he has been previously convicted as alleged in the informa-
24 tion, and shall inform him that any challenge to a prior convic-
25 tion which is not made before sentence is imposed may not
26 thereafter be raised to attack the sentence.

27 “(c) DENIAL, WRITTEN RESPONSE, AND HEARING.—

28 “(1) If the person denies any allegation of the informa-
29 tion of prior conviction, or claims that any conviction al-
30 leged is invalid, he shall file a written response to the infor-
31 mation. A copy of the response shall be served upon the
32 United States attorney. The court shall hold a hearing to
33 determine any issues raised by the response which would
34 except the person from increased punishment. The failure
35 of the United States attorney to include in the information
36 the complete criminal record of the person or any facts in
37 addition to the convictions to be relied upon shall not con-

1 stitute grounds for invalidating the notice given in the in-
2 formation required by subsection (a)(1). The hearing shall
3 be before the court without a jury and either party may in-
4 troduce evidence. Except as otherwise provided in para-
5 graph (2) of this subsection, the United States attorney
6 shall have the burden of proof beyond a reasonable doubt
7 on any issue of fact. At the request of either party, the
8 court shall enter findings of fact and conclusions of law.

9 “(2) A person claiming that a conviction alleged in the
10 information was obtained in violation of the Constitution of
11 the United States shall set forth his claim, and the factual
12 basis therefor, with particularity in his response to the in-
13 formation. The person shall have the burden of proof by a
14 preponderance of the evidence on any issue of fact raised
15 by the response. Any challenge to a prior conviction, not
16 raised by response to the information before an increased
17 sentence is imposed in reliance thereon, shall be waived un-
18 less good cause be shown for failure to make a timely chal-
19 lenge.

20 “(d) IMPOSITION OF SENTENCE.—

21 “(1) If the person files no response to the information,
22 or if the court determines, after hearing, that the person
23 is subject to increased punishment by reason of prior con-
24 victions, the court shall proceed to impose sentence upon
25 him as provided by this part.

26 “(2) If the court determines that the person has not
27 been convicted as alleged in the information, that a convic-
28 tion alleged in the information is invalid, or that the person
29 is otherwise not subject to an increased sentence as a mat-
30 ter of law, the court shall, at the request of the United
31 States attorney, postpone sentence to allow an appeal from
32 that determination. If no such request is made, the court
33 shall impose sentence as provided by this part. The person
34 may appeal from an order postponing sentence as if sen-
35 tence had been pronounced and a final judgment of convic-
36 tion entered.

1 “(e) CHALLENGES OF VALIDITY OF PRIOR CONVICTIONS.—
2 No person who is convicted of an offense under this chapter
3 may challenge the validity of any prior conviction alleged under
4 this section which occurred more than five years before the
5 date of the information alleging such prior conviction.

6 **“§ 416. Anhydrous ammonia**

7 “(a) It is unlawful for any person—

8 “(1) to steal anhydrous ammonia, or

9 “(2) to transport stolen anhydrous ammonia across State
10 lines,

11 knowing, intending, or having reasonable cause to believe that
12 such anhydrous ammonia will be used to manufacture a con-
13 trolled substance in violation of this part.

14 “(b) Any person who violates subsection (a) shall be impris-
15 oned or fined, or both, in accordance with section 403(d) as if
16 such violation were a violation of a provision of section 403.

17 **“§ 417. Controlled substances import and export**
18 **listed chemical offenses**

19 “Whoever knowingly—

20 “(1) imports or exports a listed chemical with intent to
21 manufacture a controlled substance in violation of the Con-
22 trolled Substances Act or the Controlled Substances Import
23 and Export Act;

24 “(2) exports a listed chemical in violation of the laws of
25 the country to which the chemical is exported or serves as
26 a broker or trader for an international transaction involv-
27 ing a listed chemical, if the transaction is in violation of
28 the laws of the country to which the chemical is exported;

29 “(3) imports or exports a listed chemical knowing, or
30 having reasonable cause to believe, that the chemical will
31 be used to manufacture a controlled substance in violation
32 of the Controlled Substances Act or the Controlled Sub-
33 stances Import or Export Act;

34 “(4) exports a listed chemical, or serves as a broker or
35 trader for an international transaction involving a listed
36 chemical, knowing, or having reasonable cause to believe,
37 that the chemical will be used to manufacture a controlled

1 substance in violation of the laws of the country to which
2 the chemical is exported;

3 “(5) imports or exports a listed chemical, with the intent
4 to evade the reporting or recordkeeping requirements of
5 section 1018 applicable to such importation or exportation
6 by falsely representing to the Attorney General that the im-
7 portation or exportation qualifies for a waiver of the 15-day
8 notification requirement granted pursuant to section
9 1018(e) (2) or (3) of the Controlled Substances Import and
10 Export Act by misrepresenting the actual country of final
11 destination of the listed chemical or the actual listed chem-
12 ical being imported or exported;

13 “(6) imports or exports a listed chemical in violation of
14 section 1007 or 1018; or

15 “(7) manufactures, possesses with intent to distribute, or
16 distributes a listed chemical in violation of section 1009.

17 shall be imprisoned not more than 20 years in the case of a
18 violation of paragraph (1) or (3) involving a list I chemical or
19 not more than 10 years in the case of a violation of this sub-
20 section other than a violation of paragraph (1) or (3) involving
21 a list I chemical, or both.

22 **“§ 418. Prohibited acts related to foreign terrorist**
23 **organizations or terrorist persons and**
24 **groups**

25 “(a) OFFENSE.—Whoever, as made applicable in subsection
26 (b), engages in conduct that would be punishable under section
27 841(a) of this title if committed within the jurisdiction of the
28 United States, or attempts or conspires to do so, knowing or
29 intending to provide, directly or indirectly, anything of pecu-
30 niary value to any person or organization that has engaged or
31 engages in terrorist activity (as defined in section 212(a)(3)(B)
32 of the Immigration and Nationality Act) or terrorism (as de-
33 fined in section 140(d)(2) of the Foreign Relations Authoriza-
34 tion Act, Fiscal Years 1988 and 1989), shall be sentenced to
35 a term of imprisonment of not less than twice the minimum
36 punishment under section 841(b)(1), and not more than life, a
37 fine in accordance with the provisions of title 18, United States

1 Code, or both. Notwithstanding section 3583 of title 18, United
2 States Code, any sentence imposed under this subsection shall
3 include a term of supervised release of at least 5 years in addi-
4 tion to such term of imprisonment.

5 “(b) APPLICABILITY.—The conduct described in subsection
6 (a) is an offense if—

7 “(1) the prohibited drug activity or the terrorist offense
8 is in violation of the criminal laws of the United States;

9 “(2) the offense, the prohibited drug activity, or the ter-
10 rorist offense occurs in or affects interstate or foreign com-
11 merce;

12 “(3) an offender provides anything of pecuniary value for
13 a terrorist offense that causes or is designed to cause death
14 or serious bodily injury to a national of the United States
15 while that national is outside the United States, or sub-
16 stantial damage to the property of a legal entity organized
17 under the laws of the United States (including any of its
18 States, districts, commonwealths, territories, or posses-
19 sions) while that property is outside of the United States;

20 “(4) the offense or the prohibited drug activity occurs in
21 whole or in part outside of the United States (including on
22 the high seas), and a perpetrator of the offense or the pro-
23 hibited drug activity is a national of the United States or
24 a legal entity organized under the laws of the United States
25 (including any of its States, districts, commonwealths, ter-
26 ritories, or possessions); or

27 “(5) after the conduct required for the offense occurs an
28 offender is brought into or found in the United States, even
29 if the conduct required for the offense occurs outside the
30 United States.

31 “(c) PROOF REQUIREMENTS.—To violate subsection (a), a
32 person must have knowledge that the person or organization
33 has engaged or engages in terrorist activity (as defined in sec-
34 tion 212(a)(3)(B) of the Immigration and Nationality Act) or
35 terrorism (as defined in section 140(d)(2) of the Foreign Rela-
36 tions Authorization Act, Fiscal Years 1988 and 1989).

1 “(d) DEFINITION.—As used in this section, the term ‘any-
 2 thing of pecuniary value’ has the meaning given the term in
 3 section 506.

4 **“CHAPTER 19—ORGANIZED CRIME**

| “Subchapter | Sec. |
|--|-------------|
| “A. Racketeering | 501 |
| “B. Racketeer influenced and corrupt organizations .. | 511 |
| “C. Criminal street gangs | 521 |

5 **“SUBCHAPTER A—RACKETEERING**

“Sec.

“501. Interference with commerce by threats or violence.

“502. Interstate and foreign travel or transportation in aid of racketeering enterprises.

“503. Interstate transportation of wagering paraphernalia.

“504. Offer, acceptance, or solicitation to influence operations of employee benefit plan.

“505. Prohibition of illegal gambling businesses.

“506. Use of interstate commerce facilities in the commission of murder-for-hire.

“507. Violent crimes in aid of racketeering activity.

“508. Prohibition of unlicensed money transmitting businesses.

6 **“§ 501. Interference with commerce by threats or**
 7 **violence**

8 “(a) OFFENSE.—Whoever affects interstate or foreign com-
 9 merce, by robbery or extortion or attempts or conspires so to
 10 do, or commits or threatens physical violence to any person or
 11 property in furtherance of a plan or purpose to do anything in
 12 violation of this section shall be imprisoned not more than 20
 13 years.

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

15 “(1) The term ‘robbery’ means the unlawful taking or
 16 obtaining of personal property from the person or presence
 17 of another, against his will, by means of actual or threat-
 18 ened force, or violence, or fear of injury, immediate or fu-
 19 ture, to his person or property, or property in his custody
 20 or possession, or the person or property of a relative or
 21 member of his family or of anyone in his company at the
 22 time of the taking or obtaining.

23 “(2) The term ‘extortion’ means the obtaining of prop-
 24 erty from another, with his consent, induced by wrongful

1 use of actual or threatened force, violence, or fear, or under
2 color of official right.

3 “(c) EXCLUSIONS.—This section does not repeal, modify or
4 affect section 6 or 20 of the Clayton Act, the Norris-LaGuardia
5 Act, the Labor Management Relations Act, 1947, or the Rail-
6 way Labor Act.

7 **“§ 502. Interstate and foreign travel or transpor-**
8 **tation in aid of racketeering enterprises**

9 “(a) ELEMENTS OF OFFENSE.—

10 “(1) Whoever travels in interstate or foreign commerce
11 or uses the mail or any facility in interstate or foreign com-
12 merce, with intent to—

13 “(A) distribute the proceeds of any unlawful activity;

14 “(B) commit any crime of violence to further any un-
15 lawful activity; or

16 “(C) otherwise promote, manage, establish, carry on,
17 or facilitate the promotion, management, establishment,
18 or carrying on, of any unlawful activity;

19 and thereafter performs or attempts to engage in the conduct
20 so intended shall be punished as provided in subsection (b).

21 “(b) PUNISHMENT.—The punishment for an offense under
22 subsection (a)—

23 “(1) with respect to conduct described in subparagraph
24 (A) or (C) shall be imprisoned not more than 5 years; or

25 “(2) with respect to conduct described in subparagraph
26 (B) shall be imprisoned for not more than 20 years and if
27 death results shall be imprisoned for any term of years or
28 for life.

29 “(c) DEFINITIONS.—As used in this section the term ‘unlaw-
30 ful activity’ means—

31 “(1) any business enterprise involving gambling, liquor
32 on which the Federal excise tax has not been paid, nar-
33 cotics or controlled substances (as defined in section 102(6)
34 of the Controlled Substances Act), or prostitution offenses
35 in violation of the laws of the State in which they are com-
36 mitted or of the United States;

1 “(2) extortion, bribery, or arson in violation of the laws
2 of the State in which committed or of the United States;
3 or

4 “(3) any act which is indictable under subchapter II of
5 chapter 53 of title 31, or under section 1451 or 1452.

6 **“§ 503. Interstate transportation of wagering par-**
7 **aphernalia**

8 “(a) OFFENSE.—Whoever, except a common carrier in the
9 usual course of its business, knowingly carries or sends in
10 interstate or foreign commerce any device to be used—

11 “(1) bookmaking;

12 “(2) wagering pools with respect to a sporting event; or

13 “(3) in a numbers, policy, bolita, or similar game

14 shall be imprisoned for not more than five years.

15 “(b) EXCLUSION.—This section does not apply to—

16 “(1) parimutuel betting equipment, parimutuel tickets
17 where legally acquired, or parimutuel materials used or de-
18 signed for use at racetracks or other sporting events in
19 connection with which betting is legal under applicable
20 State law;

21 “(2) the transportation of betting materials to be used
22 in the placing of bets or wagers on a sporting event into
23 a State in which such betting is legal under the statutes
24 of that State;

25 “(3) the carriage or transportation in interstate or for-
26 eign commerce of any newspaper or similar publication;

27 “(4) equipment, tickets, or materials used or designed
28 for use within a State in a lottery conducted by that State
29 acting under authority of State law; or

30 “(5) the transportation in foreign commerce to a destina-
31 tion in a foreign country of equipment, tickets, or materials
32 designed to be used within that foreign country in a lottery
33 which is authorized by the laws of that foreign country.

34 “(c) EFFECT ON STATE PROSECUTIONS.—Nothing in this
35 section creates immunity from criminal prosecution under any
36 laws of a.

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

1 “(1) the term ‘foreign country’ means any empire, coun-
2 try, dominion, colony, or protectorate, or any subdivision
3 thereof (other than the United States, its territories or pos-
4 sessions); and

5 “(2) the term ‘lottery’ means the pooling of proceeds de-
6 rived from the sale of tickets or chances and allotting those
7 proceeds or parts thereof by chance to one or more chance
8 takers or ticket purchasers, but does not include the plac-
9 ing or accepting of bets or wagers on sporting events or
10 contests.

11 **“§ 504. Offer, acceptance, or solicitation to influ-
12 ence operations of employee benefit plan**

13 “(a) OFFENSE.—Whoever, being—

14 “(1) an administrator, officer, trustee, custodian, coun-
15 sel, agent, or employee of any employee welfare benefit plan
16 or employee pension benefit plan;

17 “(2) an officer, counsel, agent, or employee of an em-
18 ployer or an employer any of whose employees are covered
19 by such plan;

20 “(3) an officer, counsel, agent, or employee of an em-
21 ployee organization any of whose members are covered by
22 such plan; or

23 “(4) a person who, or an officer, counsel, agent, or em-
24 ployee of an organization which, provides benefit plan serv-
25 ices to such plan;

26 receives or agrees to receive or solicits anything of value be-
27 cause of or with intent to be influenced with respect to, any
28 of the actions, decisions, or other duties relating to any ques-
29 tion or matter concerning such plan or any person who directly
30 or indirectly gives or offers, or promises to give or offer, any-
31 thing prohibited by this section shall be imprisoned not more
32 than three years.

33 “(b) EXCLUSION.—This section does not prohibit the pay-
34 ment to or acceptance by any person of bona fide salary, com-
35 pensation, or other payments made for goods or facilities actu-
36 ally furnished or for services actually performed in the regular
37 course of his duties as such person, administrator, officer,

1 trustee, custodian, counsel, agent, or employee of such plan,
 2 employer, employee organization, or organization providing ben-
 3 efit plan services to such plan.

4 “(c) DEFINITIONS.—As used in this section—

5 “(1) the term ‘any employee welfare benefit plan’ or ‘em-
 6 ployee pension benefit plan’ means any employee welfare
 7 benefit plan or employee pension benefit plan, respectively,
 8 subject to any provision of title I of the Employee Retirement
 9 ment Income Security Act of 1974; and

10 “(2) the term ‘employee organization’ and ‘adminis-
 11 trator’ have the meanings given those terms, respectively,
 12 in sections 3(4) and (3)(16) of the Employee Retirement
 13 Income Security Act of 1974.

14 **“§ 505. Prohibition of illegal gambling businesses**

15 “(a) OFFENSE.—Whoever conducts, finances, manages, su-
 16 pervises, directs, or owns all or part of an illegal gambling busi-
 17 ness shall be fined under this title or imprisoned not more than
 18 five years, or both.

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

20 “(1) the term ‘illegal gambling business’ means a gam-
 21 bling business which—

22 “(A) is a violation of the law of a State or political
 23 subdivision in which it is conducted;

24 “(B) involves five or more persons who conduct, fi-
 25 nance, manage, supervise, direct, or own all or part of
 26 such business; and

27 “(C) has been or remains in substantially continuous
 28 operation for a period in excess of 30 days or has a
 29 gross revenue of \$2,000 in any single day;

30 “(2) the term ‘gambling’ includes pool-selling, book-
 31 making, maintaining slot machines, roulette wheels or dice
 32 tables, and conducting lotteries, policy, bolita or numbers
 33 games, or selling chances therein.

34 “(c) ESTABLISHMENT OF PROBABLE CAUSE.—If five or
 35 more persons conduct, finance, manage, supervise, direct, or
 36 own all or part of a gambling business and such business oper-
 37 ates for two or more successive days, then, for the purpose of

1 obtaining warrants for arrests, interceptions, and other
2 searches and seizures, probable cause that the business receives
3 gross revenue in excess of \$2,000 in any single day shall be
4 deemed to have been established.

5 “(d) FORFEITURE.—Any property, including money, used in
6 violation of the provisions of this section may be seized and for-
7 feited to the United States. All provisions of law relating to the
8 seizures, summary, and judicial forfeiture procedures, and con-
9 demnation of vessels, vehicles, merchandise, and baggage for
10 violation of the customs laws; the disposition of such vessels,
11 vehicles, merchandise, and baggage or the proceeds from such
12 sale; the remission or mitigation of such forfeitures; and the
13 compromise of claims and the award of compensation to in-
14 formers in respect of such forfeitures shall apply to seizures
15 and forfeitures incurred or alleged to have been incurred under
16 the provisions of this section, insofar as applicable and not in-
17 consistent with such provisions. Such duties as are imposed
18 upon the collector of customs or any other person in respect
19 to the seizure and forfeiture of vessels, vehicles, merchandise,
20 and baggage under the customs laws shall be performed with
21 respect to seizures and forfeitures of property used or intended
22 for use in violation of this section by such officers, agents, or
23 other persons as may be designated for that purpose by the At-
24 torney General.

25 “(e) EXCLUSION.—This section does not apply to any bingo
26 game, lottery, or similar game of chance conducted by an orga-
27 nization exempt from tax under paragraph (3) of subsection (c)
28 of section 501 of the Internal Revenue Code of 1986, as
29 amended, if no part of the gross receipts derived from such ac-
30 tivity inures to the benefits of any private shareholder, member,
31 or employee of such organization except as compensation for
32 actual expenses incurred by him in the conduct of such activity.

33 **“§ 506. Use of interstate commerce facilities in the**
34 **commission of murder-for-hire**

35 “(a) OFFENSE.—Whoever travels in or causes another (in-
36 cluding the intended victim) to travel in interstate or foreign
37 commerce, or uses or causes another (including the intended

1 victim) to use the mail or any facility of interstate or foreign
 2 commerce, with intent that a murder be committed in violation
 3 of the laws of any State or the United States as consideration
 4 for the receipt of, or as consideration for a promise or agree-
 5 ment to pay, anything of pecuniary value, or who conspires to
 6 do so, shall be imprisoned for not more than ten years; and if
 7 personal injury results, shall be imprisoned for not more than
 8 twenty years; and if death results, shall be punished by death
 9 or life imprisonment.

10 “(b) DEFINITION.—As used in this section and section
 11 507—

12 “(1) the term ‘anything of pecuniary value’ means any-
 13 thing of value in the form of money, a negotiable instru-
 14 ment, a commercial interest, or anything else the primary
 15 significance of which is economic advantage; and

16 “(2) the term ‘facility of interstate or foreign commerce’
 17 includes means of transportation and communication.

18 **“§ 507. Violent crimes in aid of racketeering activ-
 19 ity**

20 “(a) OFFENSE.—Whoever, as consideration for the receipt
 21 of, or as consideration for a promise or agreement to pay, any-
 22 thing of pecuniary value from an enterprise engaged in racket-
 23 eering activity, or for the purpose of gaining entrance to or
 24 maintaining or increasing position in an enterprise engaged in
 25 racketeering activity, murders, kidnaps, maims, assaults with a
 26 dangerous weapon, commits assault resulting in serious bodily
 27 injury upon, or threatens to commit a crime of violence against
 28 any individual in violation of the laws of any State or the
 29 United States, or attempts or conspires so to do, shall be pun-
 30 ished—

31 “(1) for murder, by death or life imprisonment; and for
 32 kidnapping, by imprisonment for any term of years or for
 33 life;

34 “(2) for maiming, by imprisonment for not more than
 35 thirty years;

1 “(3) for assault with a dangerous weapon or assault re-
2 sulting in serious bodily injury, by imprisonment for not
3 more than twenty years;

4 “(4) for threatening to commit a crime of violence, by
5 imprisonment for not more than five years;

6 “(5) for attempting or conspiring to commit murder or
7 kidnapping, by imprisonment for not more than ten years;
8 and

9 “(6) for attempting or conspiring to commit a crime in-
10 volving maiming, assault with a dangerous weapon, or as-
11 sault resulting in serious bodily injury, by imprisonment for
12 not more than three years.

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

14 “(1) the term ‘racketeering activity’ has the meaning set
15 forth in section 511; and

16 “(2) the term ‘enterprise’ includes any partnership, cor-
17 poration, association, or other legal entity, and any union
18 or group of individuals associated in fact although not a
19 legal entity, which is engaged in, or the activities of which
20 affect, interstate or foreign commerce.

21 **“§ 508. Prohibition of unlicensed money transmit-**
22 **ting businesses**

23 “(a) OFFENSE.—Whoever knowingly conducts, controls,
24 manages, supervises, directs, or owns all or part of an unli-
25 censed money transmitting business, shall be imprisoned not
26 more than 5 years.

27 “(b) DEFINITION.—As used in this section—

28 “(1) the term ‘unlicensed money transmitting business’
29 means a money transmitting business which affects inter-
30 state or foreign commerce in any manner or degree and—

31 “(A) is operated without an appropriate money
32 transmitting license in a State where such operation is
33 punishable as a misdemeanor or a felony under State
34 law, whether or not the defendant knew that the oper-
35 ation was required to be licensed or that the operation
36 was so punishable;

1 “(B) fails to comply with the money transmitting
 2 business registration requirements under section 5330
 3 of title 31, United States Code, or regulations pre-
 4 scribed under such section; or

5 “(C) otherwise involves the transportation or trans-
 6 mission of funds that are known to the defendant to
 7 have been derived from a criminal offense or are in-
 8 tended to be used to promote or support unlawf-
 9 ul activity; and

10 “(2) the term ‘money transmitting’ includes transferring
 11 funds on behalf of the public by any and all means includ-
 12 ing but not limited to transfers within this country or to
 13 locations abroad by wire, check, draft, facsimile, or courier.

14 “SUBCHAPTER B—RACKETEER INFLUENCED AND
 15 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.

16 **“§ 511. Definitions**

17 “As used in this subchapter—

18 “(1) the term ‘racketeering activity’ means—

19 “(A) any act or threat involving murder, kidnapping,
 20 gambling, arson, robbery, bribery, extortion, dealing in
 21 obscene matter, or dealing in a controlled substance or
 22 listed chemical (as defined in section 102 of the Con-
 23 trolled Substances Act), which is chargeable under
 24 State law and punishable by imprisonment for more
 25 than one year;

26 “(B) any act which is indictable under any of the fol-
 27 lowing provisions of title 18, United States Code: Sec-
 28 tion 991 (relating to bribery), section 1007 (relating to
 29 sports bribery), sections 692, 693, and 694 (relating to
 30 counterfeiting), section 647 (relating to theft from

1 interstate shipment) if the act indictable under section
2 647 is felonious, section 651 (relating to embezzlement
3 from pension and welfare funds), sections 155, 156,
4 157, 159 (relating to extortionate credit transactions),
5 section 783 (relating to fraud and related activity in
6 connection with identification documents), section 784
7 (relating to fraud and related activity in connection
8 with access devices), section 1381 (relating to the
9 transmission of gambling information), section 801 (re-
10 lating to mail fraud), section 803 (relating to wire
11 fraud), section 804 (relating to financial institution
12 fraud), section 325 (relating to the procurement of citi-
13 zenship or nationalization unlawfully), section 316 (re-
14 lating to the sale of naturalization or citizenship pa-
15 pers), 318 (relating to bringing in or harboring certain
16 aliens), 321 (relating to aiding or assisting certain
17 aliens to enter the United States), (if the violation of
18 section 318 or 321 was committed for financial gain)
19 sections 1441–1443 (relating to obscene matter), sec-
20 tion 1132 (relating to obstruction of justice), section
21 1135 (relating to obstruction of criminal investiga-
22 tions), section 1137 (relating to the obstruction of
23 State or local law enforcement), section 1138 (relating
24 to tampering with a witness, victim, or an informant),
25 section 1139 (relating to retaliating against a witness,
26 victim, or an informant), section 311 (relating to false
27 statement in application and use of passport), section
28 312 (relating to forgery or false use of passport), sec-
29 tion 313 (relating to misuse of passport), section 314
30 (relating to fraud and misuse of visas, permits, and
31 other documents), sections 1261–1266 (relating to pe-
32 onage, slavery, and trafficking in persons), section 501
33 (relating to interference with commerce, robbery, or ex-
34 tortion), section 502 (relating to racketeering), section
35 503 (relating to interstate transportation of wagering
36 paraphernalia), section 504 (relating to unlawful wel-
37 fare fund payments), section 505 (relating to the prohi-

1 bition of illegal gambling businesses), section 1451 (re-
2 lating to the laundering of monetary instruments), sec-
3 tion 1452 (relating to engaging in monetary trans-
4 actions in property derived from specified unlawful ac-
5 tivity), section 506 (relating to use of interstate com-
6 merce facilities in the commission of murder-for-hire),
7 section 508 (relating to prohibition of unlicensed money
8 transmitting businesses), sections 221, 222, and 223
9 (relating to sexual exploitation of children), sections
10 671 and 672 (relating to interstate transportation of
11 stolen motor vehicles), sections 674 and 675 (relating
12 to interstate transportation of stolen property), section
13 676 (relating to trafficking in counterfeit labels for
14 phonorecords, computer programs or computer pro-
15 gram documentation or packaging and copies of motion
16 pictures or other audiovisual works), section 678 (relat-
17 ing to criminal infringement of a copyright), section
18 679 (relating to unauthorized fixation of and traf-
19 ficking in sound recordings and music videos of live
20 musical performances), section 680 (relating to traf-
21 ficking in goods or services bearing counterfeit marks),
22 section 682 (relating to trafficking in certain motor ve-
23 hicles or motor vehicle parts), sections 1411–1415 (re-
24 lating to trafficking in contraband cigarettes), sections
25 211–214 (relating to white slave traffic), sections 621–
26 627 (relating to biological weapons), sections 363 (re-
27 lating to chemical weapons), section 601 (relating to
28 nuclear materials);

29 “(C) any act which is indictable under section 302
30 of the Labor Management Relations Act, 1947, section
31 186 (dealing with restrictions on payments and loans
32 to labor organizations) or section 501(c) (relating to
33 embezzlement from union funds);

34 “(D) any offense involving fraud connected with a
35 case under title 11 (except a case under section 875 of
36 this title), fraud in the sale of securities, or the felo-
37 nious manufacture, importation, receiving, concealment,

1 buying, selling, or otherwise dealing in a controlled sub-
2 stance or listed chemical (as defined in section 102 of
3 the Controlled Substances Act), punishable under any
4 law of the United States;

5 “(E) any act which is indictable under the Currency
6 and Foreign Transactions Reporting Act;

7 “(F) any act which is indictable under section 278
8 of the Immigration and Nationality Act, if the act in-
9 dictable under such section of such Act was committed
10 for the purpose of financial gain; or

11 “(G) any act that is indictable under any provision
12 listed in section 274(g)(5)(B);

13 “(2) the term ‘person’ includes any individual or entity
14 capable of holding a legal or beneficial interest in property;

15 “(3) the term ‘enterprise’ includes any individual, part-
16 nership, corporation, association, or other legal entity, and
17 any union or group of individuals associated in fact al-
18 though not a legal entity;

19 “(4) the term ‘pattern of racketeering activity’ requires
20 at least two acts of racketeering activity, one of which oc-
21 curred after October 15, 1970 and the last of which oc-
22 curred within ten years (excluding any period of imprison-
23 ment) after the commission of a prior act of racketeering
24 activity;

25 “(5) the term ‘unlawful debt’ means a debt—

26 “(A) incurred or contracted in gambling activity
27 which was in violation of the law of the United States,
28 a State or political subdivision thereof, or which is un-
29 enforceable under State or Federal law in whole or in
30 part as to principal or interest because of the laws re-
31 lating to usury; and

32 “(B) which was incurred in connection with the busi-
33 ness of gambling in violation of the law of the United
34 States, a State or political subdivision thereof, or the
35 business of lending money or a thing of value at a rate
36 usurious under State or Federal law, where the usu-
37 rious rate is at least twice the enforceable rate;

1 “(6) the term ‘racketeering investigator’ means any at-
2 torney or investigator so designated by the Attorney Gen-
3 eral and charged with the duty of enforcing or carrying
4 into effect this chapter;

5 “(7) the term ‘racketeering investigation’ means any in-
6 quiry conducted by any racketeering investigator for the
7 purpose of ascertaining whether any person has been in-
8 volved in any violation of this subchapter or of any final
9 order, judgment, or decree of any court of the United
10 States, duly entered in any case or proceeding arising
11 under this subchapter;

12 “(8) the term ‘documentary material’ includes any book,
13 paper, document, record, recording, or other material; and

14 “(9) the term ‘Attorney General’ includes the Attorney
15 General of the United States, the Deputy Attorney General
16 of the United States, the Associate Attorney General of the
17 United States, any Assistant Attorney General of the
18 United States, or any employee of the Department of Jus-
19 tice or any employee of any department or agency of the
20 United States so designated by the Attorney General to
21 carry out the powers conferred on the Attorney General by
22 this chapter, and any department or agency so designated
23 may use in investigations authorized by this subchapter ei-
24 ther the investigative provisions of this subchapter or the
25 investigative power of such department or agency otherwise
26 conferred by law.

27 **“§ 512. Prohibited activities**

28 “(a) USING OR INVESTING PROCEEDS.—It shall be unlawful
29 for any person who has received any income derived, directly
30 or indirectly, from a pattern of racketeering activity or through
31 collection of an unlawful debt in which such person has partici-
32 pated as a principal within the meaning of section 2, title 18,
33 United States Code, to use or invest, directly or indirectly, any
34 part of such income, or the proceeds of such income, in acquisi-
35 tion of any interest in, or the establishment or operation of,
36 any enterprise which is engaged in, or the activities of which
37 affect, interstate or foreign commerce. A purchase of securities

1 on the open market for purposes of investment, and without
2 the intention of controlling or participating in the control of the
3 issuer, or of assisting another to do so, shall not be unlawful
4 under this subsection if the securities of the issuer held by the
5 purchaser, the members of his immediate family, and his or
6 their accomplices in any pattern or racketeering activity or the
7 collection of an unlawful debt after such purchase do not
8 amount in the aggregate to one percent of the outstanding se-
9 curities of any one class, and do not confer, either in law or
10 in fact, the power to elect one or more directors of the issuer.

11 “(b) MAINTAINING INTEREST OR CONTROL.—It shall be un-
12 lawful for any person through a pattern of racketeering activity
13 or through collection of an unlawful debt to acquire or main-
14 tain, directly or indirectly, any interest in or control of any en-
15 terprise which is engaged in, or the activities of which affect,
16 interstate or foreign commerce.

17 “(c) CONDUCTING AFFAIRS.—It shall be unlawful for any
18 person employed by or associated with any enterprise engaged
19 in, or the activities of which affect, interstate or foreign com-
20 merce, to conduct or participate, directly or indirectly, in the
21 conduct of such enterprise’s affairs through a pattern of rack-
22 eteering activity or collection of unlawful debt.

23 “(d) CONSPIRACIES.—It shall be unlawful for any person to
24 conspire to violate subsection (a), (b), or (c).

25 **“§ 513. Criminal penalties**

26 “Whoever violates section 512 shall be imprisoned not more
27 than 20 years (or for life if the violation is based on a racket-
28 eering activity for which the maximum penalty includes life im-
29 prisonment).

30 **“§ 514. Civil remedies**

31 “(a) PREVENTION AND RESTRAINT OF VIOLATIONS.—The
32 district courts of the United States shall have jurisdiction to
33 prevent and restrain violations of section 512 by issuing appro-
34 priate orders, including—

35 “(1) ordering any person to divest any interest in any
36 enterprise; and

1 “(2) imposing reasonable restrictions on the future ac-
2 tivities or investments of any person, including—

3 “(A) prohibiting that person from engaging in the
4 same type of endeavor as the enterprise engaged in, the
5 activities of which affect interstate or foreign com-
6 merce; or

7 “(B) ordering dissolution or reorganization of any
8 enterprise, making due provision for the rights of inno-
9 cent persons.

10 “(b) PRELIMINARY MATTERS.—The Attorney General may
11 institute proceedings under this section. Pending final deter-
12 mination thereof, the court may at any time enter such re-
13 straining orders or prohibitions, or take such other actions, in-
14 cluding the acceptance of satisfactory performance bonds, as it
15 shall deem proper.

16 “(c) PRIVATE RIGHT OF ACTION.—Any person injured in his
17 business or property by reason of a violation of section 512
18 may sue therefor in any appropriate United States district
19 court and shall recover threefold the damages he sustains and
20 the cost of the suit, including a reasonable attorney’s fee, ex-
21 cept that no person may rely upon any conduct that would have
22 been actionable as fraud in the purchase or sale of securities
23 to establish a violation of section 512. The exception contained
24 in the preceding sentence does not apply to an action against
25 any person that is criminally convicted in connection with the
26 fraud, in which case the statute of limitations shall start to run
27 on the date on which the conviction becomes final.

28 “(d) ESTOPPEL.—A final judgment or decree rendered in
29 favor of the United States in any criminal proceeding brought
30 by the United States under this chapter shall estop the defend-
31 ant from denying the essential allegations of the criminal of-
32 fense in any subsequent civil proceeding brought by the United
33 States.

34 **“§ 515. Venue and process**

35 “(a) VENUE.—Any civil action or proceeding under this sub-
36 chapter may be instituted in the district court of the United

1 States for any district in which such person resides, is found,
2 has an agent, or transacts his affairs.

3 “(b) SUMMONS.—In any action under section 514 in any dis-
4 trict court of the United States in which it is shown that the
5 ends of justice require that other parties residing in any other
6 district be brought before the court, the court may cause such
7 parties to be summoned, and process for that purpose may be
8 served in any judicial district of the United States by the mar-
9 shal thereof.

10 “(c) SUBPOENAS.—In any civil or criminal action or pro-
11 ceeding instituted by the United States under this subchapter
12 in the district court of the United States for any judicial dis-
13 trict, subpoenas issued by such court to compel the attendance
14 of witnesses may be served in any other judicial district, except
15 that in any civil action or proceeding no such subpoena shall be
16 issued for service upon any individual who resides in another
17 district at a place more than one hundred miles from the place
18 at which such court is held without approval given by a judge
19 of such court upon a showing of good cause.

20 “(d) OTHER PROCESS.—All other process in any action or
21 proceeding under this subchapter may be served on any person
22 in any judicial district in which such person resides, is found,
23 has an agent, or transacts affairs.

24 **“§ 516. Expedition of actions**

25 “In any civil action instituted under this subchapter by the
26 United States in any district court of the United States, the
27 Attorney General may file with the clerk of such court a certifi-
28 cate stating that in the Attorney General’s opinion the case is
29 of general public importance. A copy of that certificate shall be
30 furnished immediately by such clerk to the chief judge or, in
31 the absence of the chief judge, to the presiding district judge
32 of the district in which such action is pending. Upon receipt
33 of such copy, such judge shall designate immediately a judge
34 of that district to hear and determine the action.

35 **“§ 517. Evidence**

36 “In any proceeding ancillary to or in any civil action insti-
37 tuted by the United States under this subchapter the pro-

1 proceedings may be open or closed to the public at the discretion
2 of the court after consideration of the rights of affected per-
3 sons.

4 **“§ 518. Civil investigative demand**

5 “(a) ISSUANCE.—If the Attorney General has reason to be-
6 lieve that any person or enterprise may be in possession, cus-
7 tody, or control of any documentary materials relevant to a
8 racketeering investigation, the Attorney General may, before
9 the institution of a civil or criminal proceeding thereon, issue
10 in writing, and cause to be served upon such person, a civil in-
11 vestigative demand requiring such person to produce such ma-
12 terial for examination.

13 “(b) CONTENTS.—Each such demand shall—

14 “(1) state the nature of the conduct constituting the al-
15 leged racketeering violation which is under investigation
16 and the provision of law applicable thereto;

17 “(2) describe the class or classes of documentary mate-
18 rial produced thereunder with such definiteness and cer-
19 tainty as to permit such material to be fairly identified;

20 “(3) state that the demand is returnable forthwith or
21 prescribe a return date which will provide a reasonable pe-
22 riod of time within which the material so demanded may
23 be assembled and made available for inspection and copying
24 or reproduction; and

25 “(4) identify the custodian to whom such material shall
26 be made available.

27 “(c) LIMITATION.—No such demand shall—

28 “(1) contain any requirement which would be held to be
29 unreasonable if contained in a subpoena duces tecum issued
30 by a court of the United States in aid of a grand jury in-
31 vestigation of such alleged racketeering violation; or

32 “(2) require the production of any documentary evidence
33 which would be privileged from disclosure if demanded by
34 a subpoena duces tecum issued by a court of the United
35 States in aid of a grand jury investigation of such alleged
36 racketeering violation.

1 “(d) SERVICE.—Service of any such demand or any petition
2 filed under this section may be made upon a person by—

3 “(1) delivering a duly executed copy thereof to any part-
4 ner, executive officer, managing agent, or general agent
5 thereof, or to any agent thereof authorized by appointment
6 or by law to receive service of process on behalf of such
7 person, or upon any individual person;

8 “(2) delivering a duly executed copy thereof to the prin-
9 cipal office or place of business of the person to be served;
10 or

11 “(3) depositing such copy in the United States mail, by
12 registered or certified mail duly addressed to such person
13 at its principal office or place of business.

14 “(e) RETURN.—A verified return by the individual serving
15 any such demand or petition setting forth the manner of such
16 service shall be prima facie proof of such service. In the case
17 of service by registered or certified mail, such return shall be
18 accompanied by the return post office receipt of delivery of
19 such demand.

20 “(f) DOCUMENT CUSTODIAN.—

21 “(1) The Attorney General shall designate a racketeering
22 investigator to serve as racketeer document custodian, and
23 such additional racketeering investigators as the Attorney
24 General shall determine from time to time to be necessary
25 to serve as deputies to such officer.

26 “(2) Any person upon whom any demand issued under
27 this section has been duly served shall make such material
28 available for inspection and copying or reproduction to the
29 custodian designated therein at the principal place of busi-
30 ness of such person, or at such other place as such custo-
31 dian and such person thereafter may agree and prescribe
32 in writing or as the court may direct, pursuant to this sec-
33 tion on the return date specified in such demand, or on
34 such later date as such custodian may prescribe in writing.
35 Such person may upon written agreement between such
36 person and the custodian substitute for copies of all or any
37 part of such material originals thereof.

1 “(3) The custodian to whom any documentary material
2 is so delivered shall take physical possession thereof, and
3 shall be responsible for the use made thereof and for the
4 return thereof pursuant to this chapter. The custodian may
5 cause the preparation of such copies of such documentary
6 material as may be required for official use under regula-
7 tions which shall be promulgated by the Attorney General.
8 While in the possession of the custodian, no material so
9 produced shall be available for examination, without the
10 consent of the person who produced such material, by any
11 individual other than the Attorney General. Under such
12 reasonable terms and conditions as the Attorney General
13 shall prescribe, documentary material while in the posses-
14 sion of the custodian shall be available for examination by
15 the person who produced such material or any duly author-
16 ized representatives of such person.

17 “(4) Whenever any attorney has been designated to ap-
18 pear on behalf of the United States before any court or
19 grand jury in any case or proceeding involving any alleged
20 violation of this chapter, the custodian may deliver to such
21 attorney such documentary material in the possession of
22 the custodian as such attorney determines to be required
23 for use in the presentation of such case or proceeding on
24 behalf of the United States. Upon the conclusion of any
25 such case or proceeding, such attorney shall return to the
26 custodian any documentary material so withdrawn which
27 has not passed into the control of such court or grand jury
28 through the introduction thereof into the record of such
29 case or proceeding.

30 “(5) Upon the completion of—

31 “(A) the racketeering investigation for which any
32 documentary material was produced under this sub-
33 chapter, and

34 “(B) any case or proceeding arising from such inves-
35 tigation,

36 the custodian shall return to the person who produced such
37 material all such material other than copies thereof made

1 by the Attorney General pursuant to this subsection which
2 has not passed into the control of any court or grand jury
3 through the introduction thereof into the record of such
4 case or proceeding.

5 “(6) When any documentary material has been produced
6 by any person under this section for use in any racket-
7 eering investigation, and no such case or proceeding arising
8 therefrom has been instituted within a reasonable time
9 after completion of the examination and analysis of all evi-
10 dence assembled in the course of such investigation, such
11 person shall be entitled, upon written demand made upon
12 the Attorney General, to the return of all documentary ma-
13 terial other than copies thereof made pursuant to this sub-
14 section so produced by such person.

15 “(7) In the event of the death, disability, or separation
16 from service of the custodian of any documentary material
17 produced under any demand issued under this section or
18 the official relief of such custodian from responsibility for
19 the custody and control of such material, the Attorney Gen-
20 eral shall promptly—

21 “(A) designate another racketeering investigator to
22 serve as custodian thereof, and

23 “(B) transmit notice in writing to the person who
24 produced such material as to the identity and address
25 of the successor so designated.

26 Any successor so designated shall have with regard to such
27 materials all duties and responsibilities imposed by this sec-
28 tion upon the predecessor custodian with regard thereto,
29 except that he shall not be held responsible for any default
30 or dereliction which occurred before the successor’s des-
31 ignation as custodian.

32 “(g) ENFORCEMENT PETITION.—Whenever any person fails
33 to comply with any civil investigative demand duly served upon
34 him under this section or whenever satisfactory copying or re-
35 production of any such material cannot be done and such per-
36 son refuses to surrender such material, the Attorney General
37 may file, in the district court of the United States for any judi-

1 cial district in which such person resides, is found, or transacts
2 business, and serve upon such person a petition for an order
3 of such court for the enforcement of this section, except that
4 if such person transacts business in more than one such district
5 such petition shall be filed in the district in which such person
6 maintains his principal place of business, or in such other dis-
7 trict in which such person transacts business as may be agreed
8 upon by the parties to such petition.

9 “(h) MODIFICATION OR SETTING ASIDE.—Within 20 days
10 after the service of any such demand upon any person, or at
11 any time before the return date specified in the demand, which-
12 ever period is shorter, such person may file, in the district
13 court of the United States for the judicial district within which
14 such person resides, is found, or transacts business, and serve
15 upon such custodian a petition for an order of such court modi-
16 fying or setting aside such demand. The time allowed for com-
17 pliance with the demand in whole or in part as deemed proper
18 and ordered by the court shall not run during the pendency of
19 such petition in the court. Such petition shall specify each
20 ground upon which the petitioner relies in seeking such relief,
21 and may be based upon any failure of such demand to comply
22 with the provisions of this section or upon any constitutional
23 or other legal right or privilege of such person.

24 “(i) ORDERING CUSTODIAN TO PERFORM DUTY.—At any
25 time during which any custodian is in custody or control of any
26 documentary material delivered by any person in compliance
27 with any such demand, such person may file, in the district
28 court of the United States for the judicial district within which
29 the office of such custodian is situated, and serve upon such
30 custodian a petition for an order of such court requiring the
31 performance by such custodian of any duty imposed upon him
32 by this section.

33 “(j) JURISDICTION.—Whenever any petition is filed in any
34 district court of the United States under this section, such
35 court shall have jurisdiction to hear and determine the matter
36 so presented, and to enter such order or orders as may be re-
37 quired to carry into effect the provisions of this section.

1 “SUBCHAPTER C—CRIMINAL STREET GANGS

“Sec.

“521. Criminal street gangs.

2 **“§ 521. Criminal street gangs**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘conviction’ includes a finding, under State
5 or Federal law, that a person has committed an act of juve-
6 nile delinquency involving a violent or controlled substances
7 felony; and8 “(2) the term ‘criminal street gang’ means an ongoing
9 group, club, organization, or association of 5 or more per-
10 sons—11 “(A) that has as 1 of its primary purposes the com-
12 mission of 1 or more of the criminal offenses described
13 in subsection (c);14 “(B) the members of which engage, or have engaged
15 within the past 5 years, in a continuing series of of-
16 fenses described in subsection (c); and17 “(C) the activities of which affect interstate or for-
18 eign commerce.19 “(b) PENALTY.—The sentence of a person convicted of an
20 offense described in subsection (c) shall be increased by not
21 more than 10 years if the offense is committed under the cir-
22 cumstances described in subsection (d).23 “(c) OFFENSES.—The offenses described in this section
24 are—25 “(1) a Federal felony involving a controlled substance (as
26 defined in section 102 of the Controlled Substances Act (21
27 U.S.C. 802)) for which the maximum penalty is not less
28 than 5 years;29 “(2) a Federal felony crime of violence that has as an
30 element the use or attempted use of physical force against
31 the person of another; and32 “(3) a conspiracy to commit an offense described in
33 paragraph (1) or (2).

1 “(d) CIRCUMSTANCES.—The circumstances described in this
 2 section are that the offense described in subsection (c) was
 3 committed by a person who—

4 “(1) participates in a criminal street gang with knowl-
 5 edge that its members engage in or have engaged in a con-
 6 tinuing series of offenses described in subsection (c);

7 “(2) intends to promote or further the felonious activities
 8 of the criminal street gang or maintain or increase his or
 9 her position in the gang; and

10 “(3) has been convicted within the past 5 years for—

11 “(A) an offense described in subsection (c);

12 “(B) a State offense—

13 “(i) involving a controlled substance (as defined
 14 in section 102 of the Controlled Substances Act (21
 15 U.S.C. 802)) for which the maximum penalty is not
 16 less than 5 years’ imprisonment; or

17 “(ii) that is a felony crime of violence that has
 18 as an element the use or attempted use of physical
 19 force against the person of another;

20 “(C) any Federal or State felony offense that by its
 21 nature involves a substantial risk that physical force
 22 against the person of another may be used in the
 23 course of committing the offense; or

24 “(D) a conspiracy to commit an offense described in
 25 subparagraph (A), (B), or (C).

26 **“CHAPTER 21—ARSON, FIREARMS,
 27 EXPLOSIVES, AND WEAPONS CRIMES**

| “Subchapter | Sec. |
|---|-------------|
| “A. Arson | 571 |
| “B. Firearms | 581 |
| “C. Explosives | 601 |
| “D. Importation, manufacture, distribution, and stor- age of Explosive Materials | 611 |
| “E. Biological weapons | 621 |
| “F. Chemical weapons | 631 |

28 **“SUBCHAPTER A—ARSON**

“Sec.

“571. Arson within special maritime and territorial jurisdiction.

1 **“§ 571. Arson within special maritime and terri-**
 2 **torial jurisdiction**

3 “Whoever, within the special maritime and territorial jurisdic-
 4 tion of the United States, willfully and maliciously sets fire
 5 to or burns any building, structure or vessel, any machinery or
 6 building materials or supplies, military or naval stores, muni-
 7 tions of war, or any structural aids or appliances for navigation
 8 or shipping, or attempts or conspires to do such an act, shall
 9 be imprisoned for not more than 25 years. If the building is
 10 a dwelling or if the life of any person is placed in jeopardy, the
 11 offender shall be imprisoned for any term of years or for life.

12 “SUBCHAPTER B—FIREARMS

“Sec.

“581. Definitions.

“582. Unlawful acts.

“583. Licensing.

“584. Penalties.

“585. Exceptions: Relief from disabilities.

“586. Remedy for erroneous denial of firearm.

“587. Rules and regulations.

“588. Interstate transportation of firearms.

“589. Carrying of concealed firearms by qualified law enforcement officers.

“590. Carrying of concealed firearms by qualified retired law enforcement
 officers.

“591. Effect on State law.

“592. Use of restricted ammunition.

“593. Possession of firearms and dangerous weapons in Federal facilities.

“594. Prohibition on purchase, ownership, or possession of body armor by
 violent felons.

13 **“§ 581. Definitions**

14 “For the purposes of this subchapter—

15 “(1) The term ‘firearm’ means (A) any weapon (includ-
 16 ing a starter gun) which will or is designed to or may read-
 17 ily be converted to expel a projectile by the action of an ex-
 18 plosive; (B) the frame or receiver of any such weapon; (C)
 19 any firearm muffler or firearm silencer; or (D) any destruc-
 20 tive device. Such term does not include an antique firearm.

21 “(2) The term ‘destructive device’ means—

22 “(A) any explosive, incendiary, or poison gas—

23 “(i) bomb,

24 “(ii) grenade,

1 “(iii) rocket having a propellant charge of more
2 than four ounces,

3 “(iv) missile having an explosive or incendiary
4 charge of more than one-quarter ounce,

5 “(v) mine, or

6 “(vi) device similar to any of the devices de-
7 scribed in the preceding clauses;

8 “(B) any type of weapon (other than a shotgun or
9 a shotgun shell which the Attorney General finds is
10 generally recognized as particularly suitable for sport-
11 ing purposes) by whatever name known which will, or
12 which may be readily converted to, expel a projectile by
13 the action of an explosive or other propellant, and
14 which has any barrel with a bore of more than one-half
15 inch in diameter; and

16 “(C) any combination of parts either designed or in-
17 tended for use in converting any device into any de-
18 structive device described in subparagraph (A) or (B)
19 and from which a destructive device may be readily as-
20 sembled.

21 Such term does not include any device which is neither de-
22 signed nor redesigned for use as a weapon; any device, al-
23 though originally designed for use as a weapon, which is re-
24 designed for use as a signaling, pyrotechnic, line throwing,
25 safety, or similar device; surplus ordnance sold, loaned, or
26 given by the Secretary of the Army pursuant to the provi-
27 sions of section 4684(2), 4685, or 4686 of title 10; or any
28 other device which the Attorney General finds is not likely
29 to be used as a weapon, is an antique, or is a rifle which
30 the owner intends to use solely for sporting, recreational or
31 cultural purposes.

32 “(3) The term ‘shotgun’ means a weapon designed or re-
33 designed, made or remade, and intended to be fired from
34 the shoulder and designed or redesigned and made or re-
35 made to use the energy of an explosive to fire through a
36 smooth bore either a number of ball shot or a single projec-
37 tile for each single pull of the trigger.

1 “(4) The term ‘short-barreled shotgun’ means a shotgun
2 having one or more barrels less than eighteen inches in
3 length and any weapon made from a shotgun (whether by
4 alteration, modification or otherwise) if such a weapon as
5 modified has an overall length of less than twenty-six
6 inches.

7 “(5) The term ‘rifle’ means a weapon designed or rede-
8 signed, made or remade, and intended to be fired from the
9 shoulder and designed or redesigned and made or remade
10 to use the energy of an explosive to fire only a single pro-
11 jectile through a rifled bore for each single pull of the trig-
12 ger.

13 “(6) The term ‘short-barreled rifle’ means a rifle having
14 one or more barrels less than sixteen inches in length and
15 any weapon made from a rifle (whether by alteration, modi-
16 fication, or otherwise) if such weapon, as modified, has an
17 overall length of less than twenty-six inches.

18 “(7) The term ‘importer’ means any person engaged in
19 the business of importing or bringing firearms or ammuni-
20 tion into the United States for purposes of sale or distribu-
21 tion; and the term ‘licensed importer’ means any such per-
22 son licensed under the provisions of this chapter.

23 “(8) The term ‘manufacturer’ means any person engaged
24 in the business of manufacturing firearms or ammunition
25 for purposes of sale or distribution; and the term ‘licensed
26 manufacturer’ means any such person licensed under the
27 provisions of this chapter.

28 “(9) The term ‘dealer’ means (A) any person engaged in
29 the business of selling firearms at wholesale or retail, (B)
30 any person engaged in the business of repairing firearms
31 or of making or fitting special barrels, stocks, or trigger
32 mechanisms to firearms, or (C) any person who is a pawn-
33 broker. The term ‘licensed dealer’ means any dealer who is
34 licensed under the provisions of this chapter.

35 “(10) The term ‘pawnbroker’ means any person whose
36 business or occupation includes the taking or receiving, by

1 way of pledge or pawn, of any firearm as security for the
2 payment or repayment of money.

3 “(11) The term ‘collector’ means any person who ac-
4 quires, holds, or disposes of firearms as curios or relics, as
5 the Attorney General shall by regulation define, and the
6 term ‘licensed collector’ means any such person licensed
7 under the provisions of this chapter.

8 “(12) The term ‘indictment’ includes an indictment or
9 information in any court under which a crime punishable
10 by imprisonment for a term exceeding one year may be
11 prosecuted.

12 “(13) The term ‘fugitive from justice’ means any person
13 who has fled from any State to avoid prosecution for a
14 crime or to avoid giving testimony in any criminal pro-
15 ceeding.

16 “(14) The term ‘antique firearm’ means—

17 “(A) any firearm (including any firearm with a
18 matchlock, flintlock, percussion cap, or similar type of
19 ignition system) manufactured in or before 1898; or

20 “(B) any replica of any firearm described in sub-
21 paragraph (A) if such replica—

22 “(i) is not designed or redesigned for using rim-
23 fire or conventional centerfire fixed ammunition; or

24 “(ii) uses rimfire or conventional centerfire fixed
25 ammunition which is no longer manufactured in
26 the United States and which is not readily available
27 in the ordinary channels of commercial trade; or

28 “(C) any muzzle loading rifle, muzzle loading shot-
29 gun, or muzzle loading pistol, which is designed to use
30 black powder, or a black powder substitute, and which
31 cannot use fixed ammunition. For purposes of this sub-
32 paragraph, the term ‘antique firearm’ shall not include
33 any weapon which incorporates a firearm frame or re-
34 ceiver, any firearm which is converted into a muzzle
35 loading weapon, or any muzzle loading weapon which
36 can be readily converted to fire fixed ammunition by re-

1 placing the barrel, bolt, breechblock, or any combina-
2 tion thereof.

3 “(15)(A) The term ‘ammunition’ means ammunition or
4 cartridge cases, primers, bullets, or propellant powder de-
5 signed for use in any firearm.

6 “(B) The term ‘armor piercing ammunition’ means—

7 “(i) a projectile or projectile core which may be used
8 in a handgun and which is constructed entirely (exclud-
9 ing the presence of traces of other substances) from
10 one or a combination of tungsten alloys, steel, iron,
11 brass, bronze, beryllium copper, or depleted uranium;
12 or

13 “(ii) a full jacketed projectile larger than .22 caliber
14 designed and intended for use in a handgun and whose
15 jacket has a weight of more than 25 percent of the
16 total weight of the projectile.

17 “(C) The term ‘armor piercing ammunition’ does not in-
18 clude shotgun shot required by Federal or State environ-
19 mental or game regulations for hunting purposes, a fran-
20 gible projectile designed for target shooting, a projectile
21 which the Attorney General finds is primarily intended to
22 be used for sporting purposes, or any other projectile or
23 projectile core which the Attorney General finds is intended
24 to be used for industrial purposes, including a charge used
25 in an oil and gas well perforating device.

26 “(16) The term ‘published ordinance’ means a published
27 law of any political subdivision of a State which the Attor-
28 ney General determines to be relevant to the enforcement
29 of this chapter and which is contained on a list compiled
30 by the Attorney General, which list shall be published in
31 the Federal Register, revised annually, and furnished to
32 each licensee under this chapter.

33 “(17) The term ‘crime punishable by imprisonment for
34 a term exceeding one year’ does not include—

35 “(A) any Federal or State offenses pertaining to
36 antitrust violations, unfair trade practices, restraints of

1 trade, or other similar offenses relating to the regula-
2 tion of business practices, or

3 “(B) any State offense classified by the laws of the
4 State as a misdemeanor and punishable by a term of
5 imprisonment of two years or less.

6 What constitutes a conviction of such a crime shall be deter-
7 mined in accordance with the law of the jurisdiction in which
8 the proceedings were held. Any conviction which has been ex-
9 punged, or set aside or for which a person has been pardoned
10 or has had civil rights restored shall not be considered a convic-
11 tion for purposes of this chapter, unless such pardon,
12 expungement, or restoration of civil rights expressly provides
13 that the person may not ship, transport, possess, or receive
14 firearms.

15 “(18) The term ‘engaged in the business’ means—

16 “(A) as applied to a manufacturer of firearms, a per-
17 son who devotes time, attention, and labor to manufac-
18 turing firearms as a regular course of trade or business
19 with the principal objective of livelihood and profit
20 through the sale or distribution of the firearms manu-
21 factured;

22 “(B) as applied to a manufacturer of ammunition, a
23 person who devotes time, attention, and labor to manu-
24 facturing ammunition as a regular course of trade or
25 business with the principal objective of livelihood and
26 profit through the sale or distribution of the ammuni-
27 tion manufactured;

28 “(C) as applied to a dealer in firearms, as defined
29 in section 921(a)(11)(A), a person who devotes time,
30 attention, and labor to dealing in firearms as a regular
31 course of trade or business with the principal objective
32 of livelihood and profit through the repetitive purchase
33 and resale of firearms, but such term shall not include
34 a person who makes occasional sales, exchanges, or
35 purchases of firearms for the enhancement of a per-
36 sonal collection or for a hobby, or who sells all or part
37 of his personal collection of firearms;

1 “(D) as applied to a dealer in firearms, as defined
2 in section 921(a)(11)(B), a person who devotes time,
3 attention, and labor to engaging in such activity as a
4 regular course of trade or business with the principal
5 objective of livelihood and profit, but such term shall
6 not include a person who makes occasional repairs of
7 firearms, or who occasionally fits special barrels,
8 stocks, or trigger mechanisms to firearms;

9 “(E) as applied to an importer of firearms, a person
10 who devotes time, attention, and labor to importing
11 firearms as a regular course of trade or business with
12 the principal objective of livelihood and profit through
13 the sale or distribution of the firearms imported; and

14 “(F) as applied to an importer of ammunition, a per-
15 son who devotes time, attention, and labor to importing
16 ammunition as a regular course of trade or business
17 with the principal objective of livelihood and profit
18 through the sale or distribution of the ammunition im-
19 ported.

20 “(19) The term ‘with the principal objective of livelihood
21 and profit’ means that the intent underlying the sale or
22 disposition of firearms is predominantly one of obtaining
23 livelihood and pecuniary gain, as opposed to other intents,
24 such as improving or liquidating a personal firearms collec-
25 tion: Provided, That proof of profit shall not be required
26 as to a person who engages in the regular and repetitive
27 purchase and disposition of firearms for criminal purposes
28 or terrorism. For purposes of this paragraph, the term ‘ter-
29 rorism’ means activity, directed against United States per-
30 sons, which—

31 “(A) is committed by an individual who is not a na-
32 tional or permanent resident alien of the United States;

33 “(B) involves violent acts or acts dangerous to
34 human life which would be a criminal violation if com-
35 mitted within the jurisdiction of the United States; and

36 “(C) is intended—

37 “(i) to intimidate or coerce a civilian population;

1 “(ii) to influence the policy of a government by
2 intimidation or coercion; or

3 “(iii) to affect the conduct of a government by
4 assassination or kidnapping.

5 “(20) The term ‘machinegun’ has the meaning given
6 such term in section 5845(b) of the National Firearms Act
7 (26 U.S.C. 5845(b)).

8 “(21) The terms ‘firearm silencer’ and ‘firearm muffler’
9 mean any device for silencing, muffling, or diminishing the
10 report of a portable firearm, including any combination of
11 parts, designed or redesigned, and intended for use in as-
12 sembling or fabricating a firearm silencer or firearm muf-
13 fler, and any part intended only for use in such assembly
14 or fabrication.

15 “(22) The term ‘school zone’ means—

16 “(A) in, or on the grounds of, a public, parochial or
17 private school; or

18 “(B) within a distance of 1,000 feet from the
19 grounds of a public, parochial or private school.

20 “(23) The term ‘school’ means a school which provides
21 elementary or secondary education, as determined under
22 State law.

23 “(24) The term ‘motor vehicle’ has the meaning given
24 such term in section 13102 of title 49, United States Code.

25 “(25) The term ‘semiautomatic rifle’ means any repeat-
26 ing rifle which utilizes a portion of the energy of a firing
27 cartridge to extract the fired cartridge case and chamber
28 the next round, and which requires a separate pull of the
29 trigger to fire each cartridge.

30 “(26) The term ‘handgun’ means—

31 “(A) a firearm which has a short stock and is de-
32 signed to be held and fired by the use of a single hand;
33 and

34 “(B) any combination of parts from which a firearm
35 described in subparagraph (A) can be assembled.

36 “(27) The term ‘intimate partner’ means, with respect to
37 a person, the spouse of the person, a former spouse of the

1 person, an individual who is a parent of a child of the per-
2 son, and an individual who cohabitates or has cohabited
3 with the person.

4 “(28)(A) The term ‘misdemeanor crime of domestic vio-
5 lence’ means an offense that—

6 “(i) is a misdemeanor under Federal, State, or Trib-
7 al law; and

8 “(ii) has, as an element, the use or attempted use of
9 physical force, or the threatened use of a deadly weap-
10 on, committed by a current or former spouse, parent,
11 or guardian of the victim, by a person with whom the
12 victim shares a child in common, by a person who is
13 cohabiting with or has cohabited with the victim as a
14 spouse, parent, or guardian, or by a person similarly
15 situated to a spouse, parent, or guardian of the victim.

16 “(B)(i) A person shall not be considered to have been
17 convicted of such an offense for purposes of this chapter,
18 unless—

19 “(I) the person was represented by counsel in the
20 case, or knowingly and intelligently waived the right to
21 counsel in the case; and

22 “(II) in the case of a prosecution for an offense de-
23 scribed in this paragraph for which a person was enti-
24 tled to a jury trial in the jurisdiction in which the case
25 was tried, either—

26 “(aa) the case was tried by a jury; or

27 “(bb) the person knowingly and intelligently
28 waived the right to have the case tried by a jury,
29 by guilty plea or otherwise.

30 “(ii) A person shall not be considered to have been con-
31 victed of such an offense for purposes of this chapter if the
32 conviction has been expunged or set aside, or is an offense
33 for which the person has been pardoned or has had civil
34 rights restored (if the law of the applicable jurisdiction pro-
35 vides for the loss of civil rights under such an offense) un-
36 less the pardon, expungement, or restoration of civil rights

1 expressly provides that the person may not ship, transport,
2 possess, or receive firearms.

3 “(29) The term ‘secure gun storage or safety device’
4 means—

5 “(A) a device that, when installed on a firearm, is
6 designed to prevent the firearm from being operated
7 without first deactivating the device;

8 “(B) a device incorporated into the design of the
9 firearm that is designed to prevent the operation of the
10 firearm by anyone not having access to the device; or

11 “(C) a safe, gun safe, gun case, lock box, or other
12 device that is designed to be or can be used to store
13 a firearm and that is designed to be unlocked only by
14 means of a key, a combination, or other similar means.

15 “(30) The term ‘body armor’ means any product sold or
16 offered for sale, in interstate or foreign commerce, as per-
17 sonal protective body covering intended to protect against
18 gunfire, regardless of whether the product is to be worn
19 alone or is sold as a complement to another product or gar-
20 nament.

21 “(31) A member of the Armed Forces on active duty is
22 a resident of the State in which his permanent duty station
23 is located.

24 **“§ 582. Unlawful acts**

25 “(a) It shall be unlawful—

26 “(1) for any person—

27 “(A) except a licensed importer, licensed manufac-
28 turer, or licensed dealer, to engage in the business of
29 importing, manufacturing, or dealing in firearms, or in
30 the course of such business to ship, transport, or re-
31 ceive any firearm in interstate or foreign commerce; or

32 “(B) except a licensed importer or licensed manufac-
33 turer, to engage in the business of importing or manu-
34 facturing ammunition, or in the course of such busi-
35 ness, to ship, transport, or receive any ammunition in
36 interstate or foreign commerce;

1 “(2) for any importer, manufacturer, dealer, or collector
2 licensed under the provisions of this chapter to ship or
3 transport in interstate or foreign commerce any firearm to
4 any person other than a licensed importer, licensed manu-
5 facturer, licensed dealer, or licensed collector, except that—

6 “(A) this paragraph and subsection (b)(3) shall not
7 be held to preclude a licensed importer, licensed manu-
8 facturer, licensed dealer, or licensed collector from re-
9 turning a firearm or replacement firearm of the same
10 kind and type to a person from whom it was received;
11 and this paragraph shall not be held to preclude an in-
12 dividual from mailing a firearm owned in compliance
13 with Federal, State, and local law to a licensed im-
14 porter, licensed manufacturer, licensed dealer, or li-
15 censed collector;

16 “(B) this paragraph shall not be held to preclude a
17 licensed importer, licensed manufacturer, or licensed
18 dealer from depositing a firearm for conveyance in the
19 mails to any officer, employee, agent, or watchman
20 who, pursuant to the provisions of section 1715 of this
21 title, is eligible to receive through the mails pistols, re-
22 volvers, and other firearms capable of being concealed
23 on the person, for use in connection with his official
24 duty; and

25 “(C) nothing in this paragraph shall be construed as
26 applying in any manner in the District of Columbia,
27 the Commonwealth of Puerto Rico, or any possession
28 of the United States differently than it would apply if
29 the District of Columbia, the Commonwealth of Puerto
30 Rico, or the possession were in fact a State of the
31 United States;

32 “(3) for any person, other than a licensed importer, li-
33 censed manufacturer, licensed dealer, or licensed collector
34 to transport into or receive in the State where he resides
35 (or if the person is a corporation or other business entity,
36 the State where it maintains a place of business) any fire
37 arm purchased or otherwise obtained by such person out-

1 side that State, except that this paragraph (A) shall not
2 preclude any person who lawfully acquires a firearm by be-
3 quest or intestate succession in a State other than his
4 State of residence from transporting the firearm into or re-
5 ceiving it in that State, if it is lawful for such person to
6 purchase or possess such firearm in that State, (B) shall
7 not apply to the transportation or receipt of a firearm ob-
8 tained in conformity with subsection (b)(3) of this section,
9 and (C) shall not apply to the transportation of any fire-
10 arm acquired in any State prior to the effective date of this
11 chapter;

12 “(4) for any person, other than a licensed importer, li-
13 censed manufacturer, licensed dealer, or licensed collector,
14 to transport in interstate or foreign commerce any destruc-
15 tive device, machinegun (as defined in section 5845 of the
16 Internal Revenue Code of 1986), short-barreled shotgun, or
17 short-barreled rifle, except as specifically authorized by the
18 Attorney General consistent with public safety and neces-
19 sity;

20 “(5) for any person (other than a licensed importer, li-
21 censed manufacturer, licensed dealer, or licensed collector)
22 to transfer, sell, trade, give, transport, or deliver any fire-
23 arm to any person (other than a licensed importer, licensed
24 manufacturer, licensed dealer, or licensed collector) who the
25 transferor knows or has reasonable cause to believe does
26 not reside in (or if the person is a corporation or other
27 business entity, does not maintain a place of business in)
28 the State in which the transferor resides; except that this
29 paragraph shall not apply to (A) the transfer, transpor-
30 tation, or delivery of a firearm made to carry out a bequest
31 of a firearm to, or an acquisition by intestate succession of
32 a firearm by, a person who is permitted to acquire or pos-
33 sess a firearm under the laws of the State of his residence,
34 and (B) the loan or rental of a firearm to any person for
35 temporary use for lawful sporting purposes;

36 “(6) for any person in connection with the acquisition or
37 attempted acquisition of any firearm or ammunition from

1 a licensed importer, licensed manufacturer, licensed dealer,
2 or licensed collector, knowingly to make any false or ficti-
3 tious oral or written statement or to furnish or exhibit any
4 false, fictitious, or misrepresented identification, intended
5 or likely to deceive such importer, manufacturer, dealer, or
6 collector with respect to any fact material to the lawfulness
7 of the sale or other disposition of such firearm or ammuni-
8 tion under the provisions of this chapter;

9 “(7) for any person to manufacture or import armor
10 piercing ammunition, unless—

11 “(A) the manufacture of such ammunition is for the
12 use of the United States, any department or agency of
13 the United States, any State, or any department, agen-
14 cy, or political subdivision of a State;

15 “(B) the manufacture of such ammunition is for the
16 purpose of exportation; or

17 “(C) the manufacture or importation of such ammu-
18 nition is for the purpose of testing or experimentation
19 and has been authorized by the Attorney General;

20 “(8) for any manufacturer or importer to sell or deliver
21 armor piercing ammunition, unless such sale or delivery—

22 “(A) is for the use of the United States, any depart-
23 ment or agency of the United States, any State, or any
24 department, agency, or political subdivision of a State;

25 “(B) is for the purpose of exportation; or

26 “(C) is for the purpose of testing or experimentation
27 and has been authorized by the Attorney General; and

28 “(9) for any person, other than a licensed importer, li-
29 censed manufacturer, licensed dealer, or licensed collector,
30 who does not reside in any State to receive any firearms
31 unless such receipt is for lawful sporting purposes.

32 “(b) It shall be unlawful for any licensed importer, licensed
33 manufacturer, licensed dealer, or licensed collector to sell or de-
34 liver—

35 “(1) any firearm or ammunition to any individual who
36 the licensee knows or has reasonable cause to believe is less
37 than eighteen years of age, and, if the firearm, or ammuni-

1 tion is other than a shotgun or rifle, or ammunition for a
2 shotgun or rifle, to any individual who the licensee knows
3 or has reasonable cause to believe is less than twenty-one
4 years of age;

5 “(2) any firearm to any person in any State where the
6 purchase or possession by such person of such firearm
7 would be in violation of any State law or any published or-
8 dinance applicable at the place of sale, delivery or other
9 disposition, unless the licensee knows or has reasonable
10 cause to believe that the purchase or possession would not
11 be in violation of such State law or such published ordi-
12 nance;

13 “(3) any firearm to any person who the licensee knows
14 or has reasonable cause to believe does not reside in (or if
15 the person is a corporation or other business entity, does
16 not maintain a place of business in) the State in which the
17 licensee’s place of business is located, except that this para-
18 graph (A) shall not apply to the sale or delivery of any rifle
19 or shotgun to a resident of a State other than a State in
20 which the licensee’s place of business is located if the trans-
21 feree meets in person with the transferor to accomplish the
22 transfer, and the sale, delivery, and receipt fully comply
23 with the legal conditions of sale in both such States (and
24 any licensed manufacturer, importer or dealer shall be pre-
25 sumed, for purposes of this subparagraph, in the absence
26 of evidence to the contrary, to have had actual knowledge
27 of the State laws and published ordinances of both States),
28 and (B) shall not apply to the loan or rental of a firearm
29 to any person for temporary use for lawful sporting pur-
30 poses;

31 “(4) to any person any destructive device, machinegun
32 (as defined in section 5845 of the Internal Revenue Code
33 of 1986), short-barreled shotgun, or short-barreled rifle, ex-
34 cept as specifically authorized by the Attorney General con-
35 sistent with public safety and necessity; and

36 “(5) any firearm or armor-piercing ammunition to any
37 person unless the licensee notes in his records, required to

1 be kept pursuant to section 923 of this chapter, the name,
2 age, and place of residence of such person if the person is
3 an individual, or the identity and principal and local places
4 of business of such person if the person is a corporation
5 or other business entity.

6 Paragraphs (1), (2), (3), and (4) of this subsection shall not
7 apply to transactions between licensed importers, licensed man-
8 ufacturers, licensed dealers, and licensed collectors. Paragraph
9 (4) of this subsection shall not apply to a sale or delivery to
10 any research organization designated by the Attorney General.

11 “(c) In any case not otherwise prohibited by this chapter, a
12 licensed importer, licensed manufacturer, or licensed dealer
13 may sell a firearm to a person who does not appear in person
14 at the licensee’s business premises (other than another licensed
15 importer, manufacturer, or dealer) only if—

16 “(1) the transferee submits to the transferor a sworn
17 statement in the following form:

18 ““Subject to penalties provided by law, I swear that,
19 in the case of any firearm other than a shotgun or a
20 rifle, I am twenty-one years or more of age, or that,
21 in the case of a shotgun or a rifle, I am eighteen years
22 or more of age; that I am not prohibited by the provi-
23 sions of chapter 44 of title 18, United States Code,
24 from receiving a firearm in interstate or foreign com-
25 merce; and that my receipt of this firearm will not be
26 in violation of any statute of the State and published
27 ordinance applicable to the locality in which I reside.

28 Further, the true title, name, and address of the prin-
29 cipal law enforcement officer of the locality to which
30 the firearm will be delivered are — — — — —

31 — — — — —
32 — — — — — Signature — — — — —

33 — — — — — Date — — — — —.’ and containing blank
34 spaces for the attachment of a true copy of any permit
35 or other information required pursuant to such statute
36 or published ordinance;

1 “(2) the transferor has, prior to the shipment or delivery
2 of the firearm, forwarded by registered or certified mail
3 (return receipt requested) a copy of the sworn statement,
4 together with a description of the firearm, in a form pre-
5 scribed by the Attorney General, to the chief law enforce-
6 ment officer of the transferee’s place of residence, and has
7 received a return receipt evidencing delivery of the state-
8 ment or has had the statement returned due to the refusal
9 of the named addressee to accept such letter in accordance
10 with United States Post Office Department regulations;
11 and

12 “(3) the transferor has delayed shipment or delivery for
13 a period of at least seven days following receipt of the noti-
14 fication of the acceptance or refusal of delivery of the state-
15 ment.

16 A copy of the sworn statement and a copy of the notification
17 to the local law enforcement officer, together with evidence of
18 receipt or rejection of that notification shall be retained by the
19 licensee as a part of the records required to be kept under sec-
20 tion 923(g).

21 “(d) It shall be unlawful for any person to sell or otherwise
22 dispose of any firearm or ammunition to any person knowing
23 or having reasonable cause to believe that such person—

24 “(1) is under indictment for, or has been convicted in
25 any court of, a crime punishable by imprisonment for a
26 term exceeding one year;

27 “(2) is a fugitive from justice;

28 “(3) is an unlawful user of or addicted to any controlled
29 substance (as defined in section 102 of the Controlled Sub-
30 stances Act (21 U.S.C. 802));

31 “(4) has been adjudicated as a mental defective or has
32 been committed to any mental institution;

33 “(5) is an alien and—

34 “(A) is illegally or unlawfully in the United States;

35 or

36 “(B) except as provided in subsection (y)(2), has
37 been admitted to the United States under a non-

1 immigrant visa (as that term is defined in section
2 101(a)(26) of the Immigration and Nationality Act (8
3 U.S.C. 1101(a)(26)));

4 “(6) has been discharged from the Armed Forces under
5 dishonorable conditions;

6 “(7) was a citizen of the United States, and has re-
7 nounced that citizenship;

8 “(8) is subject to a court order that restrains such per-
9 son from harassing, stalking, or threatening an intimate
10 partner of such person or child of such intimate partner or
11 person, or engaging in other conduct that would place an
12 intimate partner in reasonable fear of bodily injury to the
13 partner or child, except that this paragraph shall only
14 apply to a court order that—

15 “(A) was issued after a hearing of which such person
16 received actual notice, and at which such person had
17 the opportunity to participate; and

18 “(B)(i) includes a finding that such person rep-
19 represents a credible threat to the physical safety of such
20 intimate partner or child; or

21 “(ii) by its terms explicitly prohibits the use, at-
22 tempted use, or threatened use of physical force against
23 such intimate partner or child that would reasonably be
24 expected to cause bodily injury; or

25 “(9) has been convicted in any court of a misdemeanor
26 crime of domestic violence.

27 This subsection does not apply with respect to the sale or dis-
28 position of a firearm or ammunition to a licensed importer, li-
29 censed manufacturer, licensed dealer, or licensed collector who
30 pursuant to subsection (b) of section 585 is not precluded from
31 dealing in firearms or ammunition, or to a person who has been
32 granted relief from disabilities pursuant to subsection (c) of
33 section 585.

34 “(e) It shall be unlawful for any person knowingly to deliver
35 or cause to be delivered to any common or contract carrier for
36 transportation or shipment in interstate or foreign commerce,
37 to persons other than licensed importers, licensed manufactur-

1 ers, licensed dealers, or licensed collectors, any package or
2 other container in which there is any firearm or ammunition
3 without written notice to the carrier that such firearm or am-
4 munition is being transported or shipped; except that any pas-
5 senger who owns or legally possesses a firearm or ammunition
6 being transported aboard any common or contract carrier for
7 movement with the passenger in interstate or foreign commerce
8 may deliver said firearm or ammunition into the custody of the
9 pilot, captain, conductor or operator of such common or con-
10 tract carrier for the duration of the trip without violating any
11 of the provisions of this chapter. No common or contract car-
12 rier shall require or cause any label, tag, or other written notice
13 to be placed on the outside of any package, luggage, or other
14 container that such package, luggage, or other container con-
15 tains a firearm.

16 “(f)(1) It shall be unlawful for any common or contract car-
17 rier to transport or deliver in interstate or foreign commerce
18 any firearm or ammunition with knowledge or reasonable cause
19 to believe that the shipment transportation, or receipt thereof
20 would be in violation of this chapter.

21 “(2) It shall be unlawful for any common or contract carrier
22 to deliver in interstate or foreign commerce any firearm with-
23 out obtaining written acknowledgement of receipt from the re-
24 cipient of the package or other container in which there is a
25 firearm.

26 “(g) It shall be unlawful for any person—

27 “(1) who has been convicted in any court of, a crime
28 punishable by imprisonment for a term exceeding one year;

29 “(2) who is a fugitive from justice;

30 “(3) who is an unlawful user of or addicted to any con-
31 trolled substance (as defined in section 102 of the Con-
32 trolled Substances Act (21 U.S.C. 802));

33 “(4) who has been adjudicated as a mental defective or
34 who has been committed to a mental institution;

35 “(5) who, being an alien—

36 “(A) is illegally or unlawfully in the United States;

37 or

1 “(B) except as provided in subsection (y)(2), has
2 been admitted to the United States under a non-
3 immigrant visa (as that term is defined in section
4 101(a)(26) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)(26)));

6 “(6) who has been discharged from the Armed Forces
7 under dishonorable conditions;

8 “(7) who, having been a citizen of the United States, has
9 renounced his citizenship;

10 “(8) who is subject to a court order that—

11 “(A) was issued after a hearing of which such person
12 received actual notice, and at which such person had an
13 opportunity to participate;

14 “(B) restrains such person from harassing, stalking,
15 or threatening an intimate partner of such person or
16 child of such intimate partner or person, or engaging
17 in other conduct that would place an intimate partner
18 in reasonable fear of bodily injury to the partner or
19 child; and

20 “(C)(i) includes a finding that such person rep-
21 resents a credible threat to the physical safety of such
22 intimate partner or child; or

23 “(ii) by its terms explicitly prohibits the use, at-
24 tempted use, or threatened use of physical force against
25 such intimate partner or child that would reasonably be
26 expected to cause bodily injury; or

27 “(9) who has been convicted in any court of a mis-
28 demeanor crime of domestic violence,
29 to ship or transport in interstate or foreign commerce, or pos-
30 sess in or affecting commerce, any firearm or ammunition; or
31 to receive any firearm or ammunition which has been shipped
32 or transported in interstate or foreign commerce.

33 “(h) It shall be unlawful for any individual, who to that indi-
34 vidual’s knowledge and while being employed for any person de-
35 scribed in any paragraph of subsection (g) of this section, in
36 the course of such employment—

1 “(1) to receive, possess, or transport any firearm or am-
2 munition in or affecting interstate or foreign commerce; or

3 “(2) to receive any firearm or ammunition which has
4 been shipped or transported in interstate or foreign com-
5 merce.

6 “(i) It shall be unlawful for any person to transport or ship
7 in interstate or foreign commerce, any stolen firearms or stolen
8 ammunition, knowing or having reasonable cause to believe that
9 the firearm or ammunition was stolen.

10 “(j) It shall be unlawful for any person to receive, possess,
11 conceal, store, barter, sell, or dispose of any stolen firearm or
12 stolen ammunition, or pledge or accept as security for a loan
13 any stolen firearm or stolen ammunition, which is moving as,
14 which is a part of, which constitutes, or which has been shipped
15 or transported in, interstate or foreign commerce, either before
16 or after it was stolen, knowing or having reasonable cause to
17 believe that the firearm or ammunition was stolen.

18 “(k) It shall be unlawful for any person knowingly to trans-
19 port, ship, or receive, in interstate or foreign commerce, any
20 firearm which has had the importer’s or manufacturer’s serial
21 number removed, obliterated, or altered or to possess or receive
22 any firearm which has had the importer’s or manufacturer’s se-
23 rial number removed, obliterated, or altered and has, at any
24 time, been shipped or transported in interstate or foreign com-
25 merce.

26 “(l) Except as provided in section 585(d), it shall be unlaw-
27 ful for any person knowingly to import or bring into the United
28 States or any possession thereof any firearm or ammunition;
29 and it shall be unlawful for any person knowingly to receive
30 any firearm or ammunition which has been imported or
31 brought into the United States or any possession thereof in vio-
32 lation of the provisions of this chapter.

33 “(m) It shall be unlawful for any licensed importer, licensed
34 manufacturer, licensed dealer, or licensed collector knowingly to
35 make any false entry in, to fail to make appropriate entry in,
36 or to fail to properly maintain, any record which he is required

1 to keep pursuant to section 583 or regulations promulgated
2 thereunder.

3 “(n) It shall be unlawful for any person who is under indict-
4 ment for a crime punishable by imprisonment for a term ex-
5 ceeding one year to ship or transport in interstate or foreign
6 commerce any firearm or ammunition or receive any firearm or
7 ammunition which has been shipped or transported in inter-
8 state or foreign commerce.

9 “(o)(1) Except as provided in paragraph (2), it shall be un-
10 lawful for any person to transfer or possess a machinegun.

11 “(2) This subsection does not apply with respect to—

12 “(A) a transfer to or by, or possession by or under the
13 authority of, the United States or any department or agen-
14 cy thereof or a State, or a department, agency, or political
15 subdivision thereof; or

16 “(B) any lawful transfer or lawful possession of a ma-
17 chinegun that was lawfully possessed before the date this
18 subsection takes effect.

19 “(p)(1) It shall be unlawful for any person to manufacture,
20 import, sell, ship, deliver, possess, transfer, or receive any fire-
21 arm—

22 “(A) that, after removal of grips, stocks, and magazines,
23 is not as detectable as the Security Exemplar, by walk-
24 through metal detectors calibrated and operated to detect
25 the Security Exemplar; or

26 “(B) any major component of which, when subjected to
27 inspection by the types of x-ray machines commonly used
28 at airports, does not generate an image that accurately de-
29 picts the shape of the component. Barium sulfate or other
30 compounds may be used in the fabrication of the compo-
31 nent.

32 “(2) For purposes of this subsection—

33 “(A) the term ‘firearm’ does not include the frame or re-
34 ceiver of any such weapon;

35 “(B) the term ‘major component’ means, with respect to
36 a firearm, the barrel, the slide or cylinder, or the frame or
37 receiver of the firearm; and

1 “(C) the term ‘Security Exemplar’ means an object, to
2 be fabricated at the direction of the Attorney General, that
3 is—

4 “(i) constructed of, during the 12-month period be-
5 ginning on the date of the enactment of this subsection,
6 3.7 ounces of material type 17–4 PH stainless steel in
7 a shape resembling a handgun; and

8 “(ii) suitable for testing and calibrating metal detec-
9 tors: Provided, however, That at the close of such 12-
10 month period, and

11 at appropriate times thereafter the Attorney General
12 shall promulgate regulations to permit the manufac-
13 ture, importation, sale, shipment, delivery, possession,
14 transfer, or receipt of firearms previously prohibited
15 under this subparagraph that are as detectable as a
16 ‘Security Exemplar’ which contains 3.7 ounces of mate-
17 rial type 17–4 PH stainless steel, in a shape resembling
18 a handgun, or such lesser amount as is detectable in
19 view of advances in state-of-the-art developments in
20 weapons detection technology.

21 “(3) Under such rules and regulations as the Attorney Gen-
22 eral shall prescribe, this subsection shall not apply to the man-
23 ufacture, possession, transfer, receipt, shipment, or delivery of
24 a firearm by a licensed manufacturer or any person acting pur-
25 suant to a contract with a licensed manufacturer, for the pur-
26 pose of examining and testing such firearm to determine
27 whether paragraph (1) applies to such firearm. The Attorney
28 General shall ensure that rules and regulations adopted pursu-
29 ant to this paragraph do not impair the manufacture of proto-
30 type firearms or the development of new technology.

31 “(4) The Attorney General shall permit the conditional im-
32 portation of a firearm by a licensed importer or licensed manu-
33 facturer, for examination and testing to determine whether or
34 not the unconditional importation of such firearm would violate
35 this subsection.

36 “(5) This subsection shall not apply to any firearm which—

1 “(A) has been certified by the Secretary of Defense or
2 the Director of Central Intelligence, after consultation with
3 the Attorney General and the Administrator of the Federal
4 Aviation Administration, as necessary for military or intel-
5 ligence applications; and

6 “(B) is manufactured for and sold exclusively to military
7 or intelligence agencies of the United States.

8 “(6) This subsection shall not apply with respect to any fire-
9 arm manufactured in, imported into, or possessed in the United
10 States before the date of the enactment of the Undetectable
11 Firearms Act of 1988.

12 “(q)(1) The Congress finds and declares that—

13 “(A) crime, particularly crime involving drugs and guns,
14 is a pervasive, nationwide problem;

15 “(B) crime at the local level is exacerbated by the inter-
16 state movement of drugs, guns, and criminal gangs;

17 “(C) firearms and ammunition move easily in interstate
18 commerce and have been found in increasing numbers in
19 and around schools, as documented in numerous hearings
20 in both the Committee on the Judiciary of the House of
21 Representatives and the Committee on the Judiciary of the
22 Senate;

23 “(D) in fact, even before the sale of a firearm, the gun,
24 its component parts, ammunition, and the raw materials
25 from which they are made have considerably moved in
26 interstate commerce;

27 “(E) while criminals freely move from State to State, or-
28 dinary citizens and foreign visitors may fear to travel to or
29 through certain parts of the country due to concern about
30 violent crime and gun violence, and parents may decline to
31 send their children to school for the same reason;

32 “(F) the occurrence of violent crime in school zones has
33 resulted in a decline in the quality of education in our
34 country;

35 “(G) this decline in the quality of education has an ad-
36 verse impact on interstate commerce and the foreign com-
37 merce of the United States;

1 “(H) States, localities, and school systems find it almost
2 impossible to handle gun-related crime by themselves--even
3 States, localities, and school systems that have made strong
4 efforts to prevent, detect, and punish gun-related crime
5 find their efforts unavailing due in part to the failure or
6 inability of other States or localities to take strong meas-
7 ures; and

8 “(I) the Congress has the power, under the interstate
9 commerce clause and other provisions of the Constitution,
10 to enact measures to ensure the integrity and safety of the
11 Nation’s schools by enactment of this subsection.

12 “(2)(A) It shall be unlawful for any individual knowingly to
13 possess a firearm that has moved in or that otherwise affects
14 interstate or foreign commerce at a place that the individual
15 knows, or has reasonable cause to believe, is a school zone.

16 “(B) Subparagraph (A) does not apply to the possession of
17 a firearm—

18 “(i) on private property not part of school grounds;

19 “(ii) if the individual possessing the firearm is licensed
20 to do so by the State in which the school zone is located
21 or a political subdivision of the State, and the law of the
22 State or political subdivision requires that, before an indi-
23 vidual obtains such a license, the law enforcement authori-
24 ties of the State or political subdivision verify that the indi-
25 vidual is qualified under law to receive the license;

26 “(iii) that is—

27 “(I) not loaded; and

28 “(II) in a locked container, or a locked firearms rack
29 that is on a motor vehicle;

30 “(II) in a locked container, or a locked firearms rack
31 that is on a motor vehicle;

32 “(iv) by an individual for use in a program approved by
33 a school in the school zone;

34 “(v) by an individual in accordance with a contract en-
35 tered into between a school in the school zone and the indi-
36 vidual or an employer of the individual;

1 “(vi) by a law enforcement officer acting in his or her
2 official capacity; or

3 “(vii) that is unloaded and is possessed by an individual
4 while traversing school premises for the purpose of gaining
5 access to public or private lands open to hunting, if the
6 entry on school premises is authorized by school authori-
7 ties.

8 “(3)(A) Except as provided in subparagraph (B), it shall be
9 unlawful for any person, knowingly or with reckless disregard
10 for the safety of another, to discharge or attempt to discharge
11 a firearm that has moved in or that otherwise affects interstate
12 or foreign commerce at a place that the person knows is a
13 school zone.

14 “(B) Subparagraph (A) does not apply to the discharge of
15 a firearm—

16 “(i) on private property not part of school grounds;

17 “(ii) as part of a program approved by a school in the
18 school zone, by an individual who is participating in the
19 program;

20 “(iii) by an individual in accordance with a contract en-
21 tered into between a school in a school zone and the indi-
22 vidual or an employer of the individual; or

23 “(iv) by a law enforcement officer acting in his or her
24 official capacity.

25 “(4) Nothing in this subsection shall be construed as pre-
26 empting or preventing a State or local government from enact-
27 ing a statute establishing gun free school zones as provided in
28 this subsection.

29 “(r) It shall be unlawful for any person to assemble from im-
30 ported parts any semiautomatic rifle or any shotgun which is
31 identical to any rifle or shotgun prohibited from importation
32 under section 585(d)(3) as not being particularly suitable for
33 or readily adaptable to sporting purposes except that this sub-
34 section shall not apply to—

35 “(1) the assembly of any such rifle or shotgun for sale
36 or distribution by a licensed manufacturer to the United
37 States or any department or agency thereof or to any State

1 or any department, agency, or political subdivision thereof;
2 or

3 “(2) the assembly of any such rifle or shotgun for the
4 purposes of testing or experimentation authorized by the
5 Attorney General.

6 “(s)(1) Beginning on the date that is 90 days after the date
7 of enactment of this subsection and ending on the day before
8 the date that is 60 months after such date of enactment, it
9 shall be unlawful for any licensed importer, licensed manufac-
10 turer, or licensed dealer to sell, deliver, or transfer a handgun
11 (other than the return of a handgun to the person from whom
12 it was received) to an individual who is not licensed under sec-
13 tion 583, unless—

14 “(A) after the most recent proposal of such transfer by
15 the transferee—

16 “(i) the transferor has—

17 “(I) received from the transferee a statement of
18 the transferee containing the information described
19 in paragraph (3);

20 “(II) verified the identity of the transferee by ex-
21 amining the identification document presented;

22 “(III) within 1 day after the transferee furnishes
23 the statement, provided notice of the contents of
24 the statement to the chief law enforcement officer
25 of the place of residence of the transferee; and

26 “(IV) within 1 day after the transferee furnishes
27 the statement, transmitted a copy of the statement
28 to the chief law enforcement officer of the place of
29 residence of the transferee; and

30 “(ii)(I) 5 business days (meaning days on which
31 State offices are open) have elapsed from the date the
32 transferor furnished notice of the contents of the state-
33 ment to the chief law enforcement officer, during which
34 period the transferor has not received information from
35 the chief law enforcement officer that receipt or posses-
36 sion of the handgun by the transferee would be in vio-
37 lation of Federal, State, or local law; or

1 “(II) the transferor has received notice from the
2 chief law enforcement officer that the officer has no in-
3 formation indicating that receipt or possession of the
4 handgun by the transferee would violate Federal, State,
5 or local law;

6 “(B) the transferee has presented to the transferor a
7 written statement, issued by the chief law enforcement offi-
8 cer of the place of residence of the transferee during the
9 10-day period ending on the date of the most recent pro-
10 posal of such transfer by the transferee, stating that the
11 transferee requires access to a handgun because of a threat
12 to the life of the transferee or of any member of the house-
13 hold of the transferee;

14 “(C)(i) the transferee has presented to the transferor a
15 permit that—

16 “(I) allows the transferee to possess or acquire a
17 handgun; and

18 “(II) was issued not more than 5 years earlier by the
19 State in which the transfer is to take place; and

20 “(ii) the law of the State provides that such a permit is
21 to be issued only after an authorized government official
22 has verified that the information available to such official
23 does not indicate that possession of a handgun by the
24 transferee would be in violation of the law;

25 “(D) the law of the State requires that, before any li-
26 censed importer, licensed manufacturer, or licensed dealer
27 completes the transfer of a handgun to an individual who
28 is not licensed under section 583, an authorized govern-
29 ment official verify that the information available to such
30 official does not indicate that possession of a handgun by
31 the transferee would be in violation of law;

32 “(E) the Attorney General has approved the transfer
33 under section 5812 of the Internal Revenue Code of 1986;
34 or

35 “(F) on application of the transferor, the Attorney Gen-
36 eral has certified that compliance with subparagraph
37 (A)(i)(III) is impracticable because—

1 “(i) the ratio of the number of law enforcement offi-
2 cers of the State in which the transfer is to occur to
3 the number of square miles of land area of the State
4 does not exceed 0.0025;

5 “(ii) the business premises of the transferor at which
6 the transfer is to occur are extremely remote in relation
7 to the chief law enforcement officer; and

8 “(iii) there is an absence of telecommunications fa-
9 cilities in the geographical area in which the business
10 premises are located.

11 “(2) A chief law enforcement officer to whom a transferor
12 has provided notice pursuant to paragraph (1)(A)(i)(III) shall
13 make a reasonable effort to ascertain within 5 business days
14 whether receipt or possession would be in violation of the law,
15 including research in whatever State and local recordkeeping
16 systems are available and in a national system designated by
17 the Attorney General.

18 “(3) The statement referred to in paragraph (1)(A)(i)(I)
19 shall contain only—

20 “(A) the name, address, and date of birth appearing on
21 a valid identification document (as defined in section
22 1028(d)(1) of the transferee containing a photograph of the
23 transferee and a description of the identification used;

24 “(B) a statement that the transferee—

25 “(i) is not under indictment for, and has not been
26 convicted in any court of, a crime punishable by impris-
27 onment for a term exceeding 1 year, and has not been
28 convicted in any court of a misdemeanor crime of do-
29 mestic violence;

30 “(ii) is not a fugitive from justice;

31 “(iii) is not an unlawful user of or addicted to any
32 controlled substance (as defined in section 102 of the
33 Controlled Substances Act);

34 “(iv) has not been adjudicated as a mental defective
35 or been committed to a mental institution;

36 “(v) is not an alien who—

1 “(I) is illegally or unlawfully in the United
2 States; or

3 “(II) subject to subsection (y)(2), has been ad-
4 mitted to the United States under a nonimmigrant
5 visa (as that term is defined in section 101(a)(26)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1101(a)(26)));

8 “(vi) has not been discharged from the Armed
9 Forces under dishonorable conditions; and

10 “(vii) is not a person who, having been a citizen of
11 the United States, has renounced such citizenship;

12 “(C) the date the statement is made; and

13 “(D) notice that the transferee intends to obtain a hand-
14 gun from the transferor.

15 “(4) Any transferor of a handgun who, after such transfer,
16 receives a report from a chief law enforcement officer con-
17 taining information that receipt or possession of the handgun
18 by the transferee violates Federal, State, or local law shall,
19 within 1 business day after receipt of such request, commu-
20 nicate any information related to the transfer that the trans-
21 feror has about the transfer and the transferee to—

22 “(A) the chief law enforcement officer of the place of
23 business of the transferor; and

24 “(B) the chief law enforcement officer of the place of
25 residence of the transferee.

26 “(5) Any transferor who receives information, not otherwise
27 available to the public, in a report under this subsection shall
28 not disclose such information except to the transferee, to law
29 enforcement authorities, or pursuant to the direction of a court
30 of law.

31 “(6)(A) Any transferor who sells, delivers, or otherwise
32 transfers a handgun to a transferee shall retain the copy of the
33 statement of the transferee with respect to the handgun trans-
34 action, and shall retain evidence that the transferor has com-
35 plied with subclauses (III) and (IV) of paragraph (1)(A)(i) with
36 respect to the statement.

1 “(B) Unless the chief law enforcement officer to whom a
2 statement is transmitted under paragraph (1)(A)(i)(IV) deter-
3 mines that a transaction would violate Federal, State, or local
4 law—

5 “(i) the officer shall, within 20 business days after the
6 date the transferee made the statement on the basis of
7 which the notice was provided, destroy the statement, any
8 record containing information derived from the statement,
9 and any record created as a result of the notice required
10 by paragraph (1)(A)(i)(III);

11 “(ii) the information contained in the statement shall not
12 be conveyed to any person except a person who has a need
13 to know in order to carry out this subsection; and

14 “(iii) the information contained in the statement shall
15 not be used for any purpose other than to carry out this
16 subsection.

17 “(C) If a chief law enforcement officer determines that an
18 individual is ineligible to receive a handgun and the individual
19 requests the officer to provide the reason for such determina-
20 tion, the officer shall provide such reasons to the individual in
21 writing within 20 business days after receipt of the request.

22 “(7) A chief law enforcement officer or other person respon-
23 sible for providing criminal history background information
24 pursuant to this subsection shall not be liable in an action at
25 law for damages—

26 “(A) for failure to prevent the sale or transfer of a hand-
27 gun to a person whose receipt or possession of the handgun
28 is unlawful under this section; or

29 “(B) for preventing such a sale or transfer to a person
30 who may lawfully receive or possess a handgun.

31 “(8) For purposes of this subsection, the term ‘chief law en-
32 forcement officer’ means the chief of police, the sheriff, or an
33 equivalent officer or the designee of any such individual.

34 “(9) The Attorney General shall take necessary actions to
35 ensure that the provisions of this subsection are published and
36 disseminated to licensed dealers, law enforcement officials, and
37 the public.

1 “(t)(1) Beginning on the date that is 30 days after the At-
2 torney General notifies licensees under section 103(d) of the
3 Brady Handgun Violence Prevention Act that the national in-
4 stant criminal background check system is established, a li-
5 censed importer, licensed manufacturer, or licensed dealer shall
6 not transfer a firearm to any other person who is not licensed
7 under this chapter, unless—

8 “(A) before the completion of the transfer, the licensee
9 contacts the national instant criminal background check
10 system established under section 103 of that Act;

11 “(B)(i) the system provides the licensee with a unique
12 identification number; or

13 “(ii) 3 business days (meaning a day on which State of-
14 fices are open) have elapsed since the licensee contacted the
15 system, and the system has not notified the licensee that
16 the receipt of a firearm by such other person would violate
17 subsection (g) or (n) of this section; and

18 “(C) the transferor has verified the identity of the trans-
19 feree by examining a valid identification document (as de-
20 fined in section 1028(d) of this title) of the transferee con-
21 taining a photograph of the transferee.

22 “(2) If receipt of a firearm would not violate subsection (g)
23 or (n) or State law, the system shall—

24 “(A) assign a unique identification number to the trans-
25 fer;

26 “(B) provide the licensee with the number; and

27 “(C) destroy all records of the system with respect to the
28 call (other than the identifying number and the date the
29 number was assigned) and all records of the system relat-
30 ing to the person or the transfer.

31 “(3) Paragraph (1) shall not apply to a firearm transfer be-
32 tween a licensee and another person if—

33 “(A)(i) such other person has presented to the licensee
34 a permit that—

35 “(I) allows such other person to possess or acquire
36 a firearm; and

1 “(II) was issued not more than 5 years earlier by the
2 State in which the transfer is to take place; and

3 “(ii) the law of the State provides that such a permit is
4 to be issued only after an authorized government official
5 has verified that the information available to such official
6 does not indicate that possession of a firearm by such other
7 person would be in violation of law;

8 “(B) the Attorney General has approved the transfer
9 under section 5812 of the Internal Revenue Code of 1986;
10 or

11 “(C) on application of the transferor, the Attorney Gen-
12 eral has certified that compliance with paragraph (1)(A) is
13 impracticable because—

14 “(i) the ratio of the number of law enforcement offi-
15 cers of the State in which the transfer is to occur to
16 the number of square miles of land area of the State
17 does not exceed 0.0025;

18 “(ii) the business premises of the licensee at which
19 the transfer is to occur are extremely remote in relation
20 to the chief law enforcement officer (as defined in sub-
21 section (s)(8)); and

22 “(iii) there is an absence of telecommunications fa-
23 cilities in the geographical area in which the business
24 premises are located.

25 “(4) If the national instant criminal background check sys-
26 tem notifies the licensee that the information available to the
27 system does not demonstrate that the receipt of a firearm by
28 such other person would violate subsection (g) or (n) or State
29 law, and the licensee transfers a firearm to such other person,
30 the licensee shall include in the record of the transfer the
31 unique identification number provided by the system with re-
32 spect to the transfer.

33 “(5) If the licensee knowingly transfers a firearm to such
34 other person and knowingly fails to comply with paragraph (1)
35 of this subsection with respect to the transfer and, at the time
36 such other person most recently proposed the transfer, the na-
37 tional instant criminal background check system was operating

1 and information was available to the system demonstrating that
2 receipt of a firearm by such other person would violate sub-
3 section (g) or (n) of this section or State law, the Attorney
4 General may, after notice and opportunity for a hearing, sus-
5 pend for not more than 6 months or revoke any license issued
6 to the licensee under section 583, and may impose on the li-
7 censee a civil fine of not more than \$5,000.

8 “(6) Neither a local government nor an employee of the Fed-
9 eral Government or of any State or local government, respon-
10 sible for providing information to the national instant criminal
11 background check system shall be liable in an action at law for
12 damages—

13 “(A) for failure to prevent the sale or transfer of a fire-
14 arm to a person whose receipt or possession of the firearm
15 is unlawful under this section; or

16 “(B) for preventing such a sale or transfer to a person
17 who may lawfully receive or possess a firearm.

18 “(u) It shall be unlawful for a person to steal or unlawfully
19 take or carry away from the person or the premises of a person
20 who is licensed to engage in the business of importing, manu-
21 facturing, or dealing in firearms, any firearm in the licensee’s
22 business inventory that has been shipped or transported in
23 interstate or foreign commerce.

24 “(x)(1) It shall be unlawful for a person to sell, deliver, or
25 otherwise transfer to a person who the transferor knows or has
26 reasonable cause to believe is a juvenile—

27 “(A) a handgun; or

28 “(B) ammunition that is suitable for use only in a hand-
29 gun.

30 “(2) It shall be unlawful for any person who is a juvenile to
31 knowingly possess—

32 “(A) a handgun; or

33 “(B) ammunition that is suitable for use only in a hand-
34 gun.

35 “(3) This subsection does not apply to—

36 “(A) a temporary transfer of a handgun or ammunition
37 to a juvenile or to the possession or use of a handgun or

1 ammunition by a juvenile if the handgun and ammunition
2 are possessed and used by the juvenile—

3 “(i) in the course of employment, in the course of
4 ranching or farming related to activities at the resi-
5 dence of the juvenile (or on property used for ranching
6 or farming at which the juvenile, with the permission
7 of the property owner or lessee, is performing activities
8 related to the operation of the farm or ranch), target
9 practice, hunting, or a course of instruction in the safe
10 and lawful use of a handgun;

11 “(ii) with the prior written consent of the juvenile’s
12 parent or guardian who is not prohibited by Federal,
13 State, or local law from possessing a firearm, except—

14 “(I) during transportation by the juvenile of an
15 unloaded handgun in a locked container directly
16 from the place of transfer to a place at which an
17 activity described in clause (i) is to take place and
18 transportation by the juvenile of that handgun, un-
19 loaded and in a locked container, directly from the
20 place at which such an activity took place to the
21 transferor; or

22 “(II) with respect to ranching or farming activi-
23 ties as described in clause (i), a juvenile may pos-
24 sess and use a handgun or ammunition with the
25 prior written approval of the juvenile’s parent or
26 legal guardian and at the direction of an adult who
27 is not prohibited by Federal, State or local law
28 from possessing a firearm; or

29 “(iii) the juvenile has the prior written consent in the
30 juvenile’s possession at all times when a handgun is in
31 the possession of the juvenile; and

32 “(iv) in accordance with State and local law;

33 “(B) a juvenile who is a member of the Armed Forces
34 of the United States or the National Guard who possesses
35 or is armed with a handgun in the line of duty;

36 “(C) a transfer by inheritance of title (but not posses-
37 sion) of a handgun or ammunition to a juvenile; or

1 “(D) the possession of a handgun or ammunition by a
2 juvenile taken in defense of the juvenile or other persons
3 against an intruder into the residence of the juvenile or a
4 residence in which the juvenile is an invited guest.

5 “(4) A handgun or ammunition, the possession of which is
6 transferred to a juvenile in circumstances in which the trans-
7 feror is not in violation of this subsection shall not be subject
8 to permanent confiscation by the Government if its possession
9 by the juvenile subsequently becomes unlawful because of the
10 conduct of the juvenile, but shall be returned to the lawful
11 owner when such handgun or ammunition is no longer required
12 by the Government for the purposes of investigation or prosecu-
13 tion.

14 “(5) For purposes of this subsection, the term ‘juvenile’
15 means a person who is less than 18 years of age.

16 “(6)(A) In a prosecution of a violation of this subsection, the
17 court shall require the presence of a juvenile defendant’s parent
18 or legal guardian at all proceedings.

19 “(B) The court may use the contempt power to enforce sub-
20 paragraph (A).

21 “(C) The court may excuse attendance of a parent or legal
22 guardian of a juvenile defendant at a proceeding in a prosecu-
23 tion of a violation of this subsection for good cause shown.

24 “(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER
25 NONIMMIGRANT VISAS.—

26 “(1) DEFINITIONS.—In this subsection—

27 “(A) the term ‘alien’ has the same meaning as in
28 section 101(a)(3) of the Immigration and Nationality
29 Act (8 U.S.C. 1101(a)(3)); and

30 “(B) the term ‘nonimmigrant visa’ has the same
31 meaning as in section 101(a)(26) of the Immigration
32 and Nationality Act (8 U.S.C. 1101(a)(26)).

33 “(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B),
34 and (s)(3)(B)(v)(II) do not apply to any alien who has been
35 lawfully admitted to the United States under a non-
36 immigrant visa, if that alien is—

1 “(A) admitted to the United States for lawful hunt-
2 ing or sporting purposes or is in possession of a hunt-
3 ing license or permit lawfully issued in the United
4 States;

5 “(B) an official representative of a foreign govern-
6 ment who is—

7 “(i) accredited to the United States Government
8 or the Government’s mission to an international or-
9 ganization having its headquarters in the United
10 States; or

11 “(ii) en route to or from another country to
12 which that alien is accredited;

13 “(C) an official of a foreign government or a distin-
14 guished foreign visitor who has been so designated by
15 the Department of State; or

16 “(D) a foreign law enforcement officer of a friendly
17 foreign government entering the United States on offi-
18 cial law enforcement business.

19 “(3) WAIVER.—

20 “(A) CONDITIONS FOR WAIVER.—Any individual who
21 has been admitted to the United States under a non-
22 immigrant visa may receive a waiver from the require-
23 ments of subsection (g)(5), if—

24 “(i) the individual submits to the Attorney Gen-
25 eral a petition that meets the requirements of sub-
26 paragraph (C); and

27 “(ii) the Attorney General approves the petition.

28 “(B) PETITION.—Each petition under subparagraph
29 (B) shall—

30 “(i) demonstrate that the petitioner has resided
31 in the United States for a continuous period of not
32 less than 180 days before the date on which the pe-
33 tition is submitted under this paragraph; and

34 “(ii) include a written statement from the em-
35 bassy or consulate of the petitioner, authorizing the
36 petitioner to acquire a firearm or ammunition and
37 certifying that the alien would not, absent the ap-

1 plication of subsection (g)(5)(B), otherwise be pro-
 2 hibited from such acquisition under subsection (g).

3 “(C) APPROVAL OF PETITION.—The Attorney Gen-
 4 eral shall approve a petition submitted in accordance
 5 with this paragraph, if the Attorney General deter-
 6 mines that waiving the requirements of subsection
 7 (g)(5)(B) with respect to the petitioner—

8 “(i) would be in the interests of justice; and

9 “(ii) would not jeopardize the public safety.

10 “(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

11 “(1) IN GENERAL.—Except as provided under paragraph
 12 (2), it shall be unlawful for any licensed importer, licensed
 13 manufacturer, or licensed dealer to sell, deliver, or transfer
 14 any handgun to any person other than any person licensed
 15 under this chapter, unless the transferee is provided with
 16 a secure gun storage or safety device (as defined in section
 17 921(a)(34)) for that handgun.

18 “(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

19 “(A)(i) the manufacture for, transfer to, or posses-
 20 sion by, the United States, a department or agency of
 21 the United States, a State, or a department, agency, or
 22 political subdivision of a State, of a handgun; or

23 “(ii) the transfer to, or possession by, a law en-
 24 forcement officer employed by an entity referred to
 25 in clause (i) of a handgun for law enforcement pur-
 26 poses (whether on or off duty); or

27 “(B) the transfer to, or possession by, a rail police
 28 officer employed by a rail carrier and certified or com-
 29 missioned as a police officer under the laws of a State
 30 of a handgun for purposes of law enforcement (whether
 31 on or off duty);

32 “(C) the transfer to any person of a handgun listed
 33 as a curio or relic by the Secretary pursuant to section
 34 921(a)(13); or

35 “(D) the transfer to any person of a handgun for
 36 which a secure gun storage or safety device is tempo-
 37 rarily unavailable for the reasons described in the ex-

1 ceptions stated in section 923(e), if the licensed manu-
 2 facturer, licensed importer, or licensed dealer delivers
 3 to the transferee within 10 calendar days from the date
 4 of the delivery of the handgun to the transferee a se-
 5 cure gun storage or safety device for the handgun.

6 “(3) LIABILITY FOR USE.—

7 “(A) IN GENERAL.—Notwithstanding any other pro-
 8 vision of law, a person who has lawful possession and
 9 control of a handgun, and who uses a secure gun stor-
 10 age or safety device with the handgun, shall be entitled
 11 to immunity from a qualified civil liability action.

12 “(B) PROSPECTIVE ACTIONS.—A qualified civil liabil-
 13 ity action may not be brought in any Federal or State
 14 court.

15 “(C) DEFINED TERM.—As used in this paragraph,
 16 the term ‘qualified civil liability action’—

17 “(i) means a civil action brought by any person
 18 against a person described in subparagraph (A) for
 19 damages resulting from the criminal or unlawful
 20 misuse of the handgun by a third party, if—

21 “(I) the handgun was accessed by another
 22 person who did not have the permission or au-
 23 thorization of the person having lawful posses-
 24 sion and control of the handgun to have access
 25 to it; and

26 “(II) at the time access was gained by the
 27 person not so authorized, the handgun had
 28 been made inoperable by use of a secure gun
 29 storage or safety device; and

30 “(ii) shall not include an action brought against
 31 the person having lawful possession and control of
 32 the handgun for negligent entrustment or neg-
 33 ligence per se.

34 **“§ 583. Licensing**

35 “(a) No person shall engage in the business of importing,
 36 manufacturing, or dealing in firearms, or importing or manu-
 37 facturing ammunition, until he has filed an application with

1 and received a license to do so from the Attorney General. The
2 application shall be in such form and contain only that infor-
3 mation necessary to determine eligibility for licensing as the
4 Attorney General shall by regulation prescribe and shall include
5 a photograph and fingerprints of the applicant. Each applicant
6 shall pay a fee for obtaining such a license, a separate fee being
7 required for each place in which the applicant is to do business,
8 as follows:

9 “(1) If the applicant is a manufacturer—

10 “(A) of destructive devices, ammunition for destruc-
11 tive devices or armor piercing ammunition, a fee of
12 \$1,000 per year;

13 “(B) of firearms other than destructive devices, a fee
14 of \$50 per year; or

15 “(C) of ammunition for firearms, other than ammu-
16 nition for destructive devices or armor piercing ammu-
17 nition, a fee of \$10 per year.

18 “(2) If the applicant is an importer—

19 “(A) of destructive devices, ammunition for destruc-
20 tive devices or armor piercing ammunition, a fee of
21 \$1,000 per year; or

22 “(B) of firearms other than destructive devices or
23 ammunition for firearms other than destructive devices,
24 or ammunition other than armor piercing ammunition,
25 a fee of \$50 per year.

26 “(3) If the applicant is a dealer—

27 “(A) in destructive devices or ammunition for de-
28 structive devices, a fee of \$1,000 per year; or

29 “(B) who is not a dealer in destructive devices, a fee
30 of \$200 for 3 years, except that the fee for renewal of
31 a valid license shall be \$90 for 3 years.

32 “(b) Any person desiring to be licensed as a collector shall
33 file an application for such license with the Attorney General.
34 The application shall be in such form and contain only that in-
35 formation necessary to determine eligibility as the Attorney
36 General shall by regulation prescribe. The fee for such license

1 shall be \$10 per year. Any license granted under this sub-
2 section shall only apply to transactions in curios and relics.

3 “(c) Upon the filing of a proper application and payment of
4 the prescribed fee, the Attorney General shall issue to a quali-
5 fied applicant the appropriate license which, subject to the pro-
6 visions of this chapter and other applicable provisions of law,
7 shall entitle the licensee to transport, ship, and receive firearms
8 and ammunition covered by such license in interstate or foreign
9 commerce during the period stated in the license. Nothing in
10 this chapter shall be construed to prohibit a licensed manufac-
11 turer, importer, or dealer from maintaining and disposing of a
12 personal collection of firearms, subject only to such restrictions
13 as apply in this chapter to dispositions by a person other than
14 a licensed manufacturer, importer, or dealer. If any firearm is
15 so disposed of by a licensee within one year after its transfer
16 from his business inventory into such licensee’s personal collec-
17 tion or if such disposition or any other acquisition is made for
18 the purpose of willfully evading the restrictions placed upon li-
19 censees by this chapter, then such firearm shall be deemed part
20 of such licensee’s business inventory, except that any licensed
21 manufacturer, importer, or dealer who has maintained a fire-
22 arm as part of a personal collection for one year and who sells
23 or otherwise disposes of such firearm shall record the descrip-
24 tion of the firearm in a bound volume, containing the name and
25 place of residence and date of birth of the transferee if the
26 transferee is an individual, or the identity and principal and
27 local places of business of the transferee if the transferee is a
28 corporation or other business entity: Provided, That no other
29 recordkeeping shall be required.

30 “(d)(1) Any application submitted under subsection (a) or
31 (b) of this section shall be approved if—

32 “(A) the applicant is twenty-one years of age or over;

33 “(B) the applicant (including, in the case of a corpora-
34 tion, partnership, or association, any individual possessing,
35 directly or indirectly, the power to direct or cause the direc-
36 tion of the management and policies of the corporation,
37 partnership, or association) is not prohibited from trans-

1 porting, shipping, or receiving firearms or ammunition in
2 interstate or foreign commerce under section 582(g) and
3 (n);

4 “(C) the applicant has not willfully violated any of the
5 provisions of this chapter or regulations issued thereunder;

6 “(D) the applicant has not willfully failed to disclose any
7 material information required, or has not made any false
8 statement as to any material fact, in connection with his
9 application;

10 “(E) the applicant has in a State (i) premises from
11 which he conducts business subject to license under this
12 chapter or from which he intends to conduct such business
13 within a reasonable period of time, or (ii) in the case of a
14 collector, premises from which he conducts his collecting
15 subject to license under this chapter or from which he in-
16 tends to conduct such collecting within a reasonable period
17 of time;

18 “(F) the applicant certifies that—

19 “(i) the business to be conducted under the license
20 is not prohibited by State or local law in the place
21 where the licensed premise is located;

22 “(ii)(I) within 30 days after the application is ap-
23 proved the business will comply with the requirements
24 of State and local law applicable to the conduct of the
25 business; and

26 “(II) the business will not be conducted under the li-
27 cense until the requirements of State and local law ap-
28 plicable to the business have been met; and

29 “(iii) that the applicant has sent or delivered a form
30 to be prescribed by the Attorney General, to the chief
31 law enforcement officer of the locality in which the
32 premises are located, which indicates that the applicant
33 intends to apply for a Federal firearms license; and

34 “(G) in the case of an application to be licensed as a
35 dealer, the applicant certifies that secure gun storage or
36 safety devices will be available at any place in which fire-
37 arms are sold under the license to persons who are not li-

1 censees (subject to the exception that in any case in which
2 a secure gun storage or safety device is temporarily un-
3 available because of theft, casualty loss, consumer sales,
4 backorders from a manufacturer, or any other similar rea-
5 son beyond the control of the licensee, the dealer shall not
6 be considered to be in violation of the requirement under
7 this subparagraph to make available such a device).

8 “(2) The Attorney General must approve or deny an applica-
9 tion for a license within the 60-day period beginning on the
10 date it is received. If the Attorney General fails to act within
11 such period, the applicant may file an action under section
12 1361 of title 28 to compel the Attorney General to act. If the
13 Attorney General approves an applicant’s application, such ap-
14 plicant shall be issued a license upon the payment of the pre-
15 scribed fee.

16 “(e) The Attorney General may, after notice and opportunity
17 for hearing, revoke any license issued under this section if the
18 holder of such license has willfully violated any provision of this
19 chapter or any rule or regulation prescribed by the Attorney
20 General under this chapter or fails to have secure gun storage
21 or safety devices available at any place in which firearms are
22 sold under the license to persons who are not licensees (except
23 that in any case in which a secure gun storage or safety device
24 is temporarily unavailable because of theft, casualty loss, con-
25 sumer sales, backorders from a manufacturer, or any other
26 similar reason beyond the control of the licensee, the dealer
27 shall not be considered to be in violation of the requirement to
28 make available such a device). The Attorney General may, after
29 notice and opportunity for hearing, revoke the license of a deal-
30 er who willfully transfers armor piercing ammunition. The At-
31 torney General’s action under this subsection may be reviewed
32 only as provided in subsection (f) of this section.

33 “(f)(1) Any person whose application for a license is denied
34 and any holder of a license which is revoked shall receive a
35 written notice from the Attorney General stating specifically
36 the grounds upon which the application was denied or upon
37 which the license was revoked. Any notice of a revocation of a

1 license shall be given to the holder of such license before the
2 effective date of the revocation.

3 “(2) If the Attorney General denies an application for, or re-
4 vokes, a license, he shall, upon request by the aggrieved party,
5 promptly hold a hearing to review his denial or revocation. In
6 the case of a revocation of a license, the Attorney General shall
7 upon the request of the holder of the license stay the effective
8 date of the revocation. A hearing held under this paragraph
9 shall be held at a location convenient to the aggrieved party.

10 “(3) If after a hearing held under paragraph (2) the Attor-
11 ney General decides not to reverse his decision to deny an ap-
12 plication or revoke a license, the Attorney General shall give
13 notice of his decision to the aggrieved party. The aggrieved
14 party may at any time within sixty days after the date notice
15 was given under this paragraph file a petition with the United
16 States district court for the district in which he resides or has
17 his principal place of business for a de novo judicial review of
18 such denial or revocation. In a proceeding conducted under this
19 subsection, the court may consider any evidence submitted by
20 the parties to the proceeding whether or not such evidence was
21 considered at the hearing held under paragraph (2). If the
22 court decides that the Attorney General was not authorized to
23 deny the application or to revoke the license, the court shall
24 order the Attorney General to take such action as may be nec-
25 essary to comply with the judgment of the court.

26 “(4) If criminal proceedings are instituted against a licensee
27 alleging any violation of this chapter or of rules or regulations
28 prescribed under this chapter, and the licensee is acquitted of
29 such charges, or such proceedings are terminated, other than
30 upon motion of the Government before trial upon such charges,
31 the Attorney General shall be absolutely barred from denying
32 or revoking any license granted under this chapter where such
33 denial or revocation is based in whole or in part on the facts
34 which form the basis of such criminal charges. No proceedings
35 for the revocation of a license shall be instituted by the Attor-
36 ney General more than one year after the filing of the indict-
37 ment or information.

1 “(g)(1)(A) Each licensed importer, licensed manufacturer,
2 and licensed dealer shall maintain such records of importation,
3 production, shipment, receipt, sale, or other disposition of fire-
4 arms at his place of business for such period, and in such form,
5 as the Attorney General may by regulations prescribe. Such im-
6 porters, manufacturers, and dealers shall not be required to
7 submit to the Attorney General reports and information with
8 respect to such records and the contents thereof, except as ex-
9 pressly required by this section. The Attorney General, when he
10 has reasonable cause to believe a violation of this chapter has
11 occurred and that evidence thereof may be found on such prem-
12 ises, may, upon demonstrating such cause before a Federal
13 magistrate judge and securing from such magistrate judge a
14 warrant authorizing entry, enter during business hours the
15 premises (including places of storage) of any licensed firearms
16 importer, licensed manufacturer, licensed dealer, licensed col-
17 lector, or any licensed importer or manufacturer of ammuni-
18 tion, for the purpose of inspecting or examining—

19 “(i) any records or documents required to be kept by
20 such licensed importer, licensed manufacturer, licensed
21 dealer, or licensed collector under this chapter or rules or
22 regulations under this chapter, and

23 “(ii) any firearms or ammunition kept or stored by such
24 licensed importer, licensed manufacturer, licensed dealer, or
25 licensed collector, at such premises.

26 “(B) The Attorney General may inspect or examine the in-
27 ventory and records of a licensed importer, licensed manufac-
28 turer, or licensed dealer without such reasonable cause or war-
29 rant—

30 “(i) in the course of a reasonable inquiry during the
31 course of a criminal investigation of a person or persons
32 other than the licensee;

33 “(ii) for ensuring compliance with the record keeping re-
34 quirements of this chapter—

35 “(I) not more than once during any 12-month pe-
36 riod; or

1 “(II) at any time with respect to records relating to
2 a firearm involved in a criminal investigation that is
3 traced to the licensee; or

4 “(iii) when such inspection or examination may be re-
5 quired for determining the disposition of one or more par-
6 ticular firearms in the course of a bona fide criminal inves-
7 tigation.

8 “(C) The Attorney General may inspect the inventory and
9 records of a licensed collector without such reasonable cause or
10 warrant—

11 “(i) for ensuring compliance with the record keeping re-
12 quirements of this chapter not more than once during any
13 twelve-month period; or

14 “(ii) when such inspection or examination may be re-
15 quired for determining the disposition of one or more par-
16 ticular firearms in the course of a bona fide criminal inves-
17 tigation.

18 “(D) At the election of a licensed collector, the annual in-
19 spection of records and inventory permitted under this para-
20 graph shall be performed at the office of the Attorney General
21 designated for such inspections which is located in closest prox-
22 imity to the premises where the inventory and records of such
23 licensed collector are maintained. The inspection and examina-
24 tion authorized by this paragraph shall not be construed as au-
25 thorizing the Attorney General to seize any records or other
26 documents other than those records or documents constituting
27 material evidence of a violation of law. If the Attorney General
28 seizes such records or documents, copies shall be provided the
29 licensee within a reasonable time. The Attorney General may
30 make available to any Federal, State, or local law enforcement
31 agency any information which he may obtain by reason of this
32 chapter with respect to the identification of persons prohibited
33 from purchasing or receiving firearms or ammunition who have
34 purchased or received firearms or ammunition, together with a
35 description of such firearms or ammunition, and he may pro-
36 vide information to the extent such information may be con-
37 tained in the records required to be maintained by this chapter,

1 when so requested by any Federal, State, or local law enforce-
2 ment agency.

3 “(2) Each licensed collector shall maintain in a bound vol-
4 ume the nature of which the Attorney General may by regula-
5 tions prescribe, records of the receipt, sale, or other disposition
6 of firearms. Such records shall include the name and address
7 of any person to whom the collector sells or otherwise disposes
8 of a firearm. Such collector shall not be required to submit to
9 the Attorney General reports and information with respect to
10 such records and the contents thereof, except as expressly re-
11 quired by this section.

12 “(3)(A) Each licensee shall prepare a report of multiple sales
13 or other dispositions whenever the licensee sells or otherwise
14 disposes of, at one time or during any five consecutive business
15 days, two or more pistols, or revolvers, or any combination of
16 pistols and revolvers totalling two or more, to an unlicensed
17 person. The report shall be prepared on a form specified by the
18 Attorney General and forwarded to the office specified thereon
19 and to the department of State police or State law enforcement
20 agency of the State or local law enforcement agency of the local
21 jurisdiction in which the sale or other disposition took place,
22 not later than the close of business on the day that the multiple
23 sale or other disposition occurs.

24 “(B) Except in the case of forms and contents thereof re-
25 garding a purchaser who is prohibited by subsection (g) or (n)
26 of section 582 of this title from receipt of a firearm, the de-
27 partment of State police or State law enforcement agency or
28 local law enforcement agency of the local jurisdiction shall not
29 disclose any such form or the contents thereof to any person
30 or entity, and shall destroy each such form and any record of
31 the contents thereof no more than 20 days from the date such
32 form is received. No later than the date that is 6 months after
33 the effective date of this subparagraph, and at the end of each
34 6-month period thereafter, the department of State police or
35 State law enforcement agency or local law enforcement agency
36 of the local jurisdiction shall certify to the Attorney General of
37 the United States that no disclosure contrary to this subpara-

1 graph has been made and that all forms and any record of the
2 contents thereof have been destroyed as provided in this sub-
3 paragraph.

4 “(4) Where a firearms or ammunition business is discon-
5 tinued and succeeded by a new licensee, the records required
6 to be kept by this chapter shall appropriately reflect such facts
7 and shall be delivered to the successor. Where discontinuance
8 of the business is absolute, such records shall be delivered with-
9 in thirty days after the business discontinuance to the Attorney
10 General. However, where State law or local ordinance requires
11 the delivery of records to other responsible authority, the Attor-
12 ney General may arrange for the delivery of such records to
13 such other responsible authority.

14 “(5)(A) Each licensee shall, when required by letter issued
15 by the Attorney General, and until notified to the contrary in
16 writing by the Attorney General, submit on a form specified by
17 the Attorney General, for periods and at the times specified in
18 such letter, all record information required to be kept by this
19 chapter or such lesser record information as the Attorney Gen-
20 eral in such letter may specify.

21 “(B) The Attorney General may authorize such record infor-
22 mation to be submitted in a manner other than that prescribed
23 in subparagraph (A) of this paragraph when it is shown by a
24 licensee that an alternate method of reporting is reasonably
25 necessary and will not unduly hinder the effective administra-
26 tion of this chapter. A licensee may use an alternate method
27 of reporting if the licensee describes the proposed alternate
28 method of reporting and the need therefor in a letter applica-
29 tion submitted to the Attorney General, and the Attorney Gen-
30 eral approves such alternate method of reporting.

31 “(6) Each licensee shall report the theft or loss of a firearm
32 from the licensee’s inventory or collection, within 48 hours after
33 the theft or loss is discovered, to the Attorney General and to
34 the appropriate local authorities.

35 “(7) Each licensee shall respond immediately to, and in no
36 event later than 24 hours after the receipt of, a request by the
37 Attorney General for information contained in the records re-

1 required to be kept by this chapter as may be required for deter-
2 mining the disposition of 1 or more firearms in the course of
3 a bona fide criminal investigation. The requested information
4 shall be provided orally or in writing, as the Attorney General
5 may require. The Attorney General shall implement a system
6 whereby the licensee can positively identify and establish that
7 an individual requesting information via telephone is employed
8 by and authorized by the agency to request such information.

9 “(h) Licenses issued under the provisions of subsection (c)
10 of this section shall be kept posted and kept available for in-
11 spection on the premises covered by the license.

12 “(i) Licensed importers and licensed manufacturers shall
13 identify by means of a serial number engraved or cast on the
14 receiver or frame of the weapon, in such manner as the Attor-
15 ney General shall by regulations prescribe, each firearm im-
16 ported or manufactured by such importer or manufacturer.

17 “(j) A licensed importer, licensed manufacturer, or licensed
18 dealer may, under rules or regulations prescribed by the Attor-
19 ney General, conduct business temporarily at a location other
20 than the location specified on the license if such temporary lo-
21 cation is the location for a gun show or event sponsored by any
22 national, State, or local organization, or any affiliate of any
23 such organization devoted to the collection, competitive use, or
24 other sporting use of firearms in the community, and such loca-
25 tion is in the State which is specified on the license. Records
26 of receipt and disposition of firearms transactions conducted at
27 such temporary location shall include the location of the sale
28 or other disposition and shall be entered in the permanent
29 records of the licensee and retained on the location specified on
30 the license. Nothing in this subsection shall authorize any li-
31 censee to conduct business in or from any motorized or towed
32 vehicle. Notwithstanding the provisions of subsection (a) of this
33 section, a separate fee shall not be required of a licensee with
34 respect to business conducted under this subsection. Any in-
35 spection or examination of inventory or records under this
36 chapter by the Attorney General at such temporary location
37 shall be limited to inventory consisting of, or records relating

1 to, firearms held or disposed at such temporary location. Noth-
2 ing in this subsection shall be construed to authorize the Attor-
3 ney General to inspect or examine the inventory or records of
4 a licensed importer, licensed manufacturer, or licensed dealer at
5 any location other than the location specified on the license.
6 Nothing in this subsection shall be construed to diminish in
7 any manner any right to display, sell, or otherwise dispose of
8 firearms or ammunition, which is in effect before the date of
9 the enactment of the Firearms Owners' Protection Act, includ-
10 ing the right of a licensee to conduct 'curios or relics' firearms
11 transfers and business away from their business premises with
12 another licensee without regard as to whether the location of
13 where the business is conducted is located in the State specified
14 on the license of either licensee.

15 “(k) Licensed importers and licensed manufacturers shall
16 mark all armor piercing projectiles and packages containing
17 such projectiles for distribution in the manner prescribed by
18 the Attorney General by regulation. The Attorney General shall
19 furnish information to each dealer licensed under this chapter
20 defining which projectiles are considered armor piercing ammu-
21 nition.

22 “(l) The Attorney General shall notify the chief law enforce-
23 ment officer in the appropriate State and local jurisdictions of
24 the names and addresses of all persons in the State to whom
25 a firearms license is issued.

26 **“§ 584. Penalties**

27 “(a)(1) Except as otherwise provided in this subsection, sub-
28 section (b), (c), (f), or (p) of this section, or in section 592,
29 whoever—

30 “(A) knowingly makes any false statement or representa-
31 tion with respect to the information required by this chap-
32 ter to be kept in the records of a person licensed under this
33 chapter or in applying for any license or exemption or relief
34 from disability under the provisions of this chapter;

35 “(B) knowingly violates subsection (a)(4), (f), (k), or (q)
36 of section 582;

1 “(C) knowingly imports or brings into the United States
2 or any possession thereof any firearm or ammunition in
3 violation of section 582(l); or

4 “(D) knowingly violates any other provision of this chap-
5 ter,

6 shall be imprisoned not more than five years.

7 “(2) Whoever knowingly violates subsection (a)(6), (d), (g),
8 (h), (i), (j), or (o) of section 582 shall be imprisoned not more
9 than 10 years.

10 “(3) Any licensed dealer, licensed importer, licensed manu-
11 facturer, or licensed collector who knowingly—

12 “(A) makes any false statement or representation with
13 respect to the information required by the provisions of this
14 chapter to be kept in the records of a person licensed under
15 this chapter, or

16 “(B) violates subsection (m) of section 582,
17 shall be imprisoned not more than one year.

18 “(4) Whoever violates section 582(q) shall be imprisoned for
19 not more than 5 years. Notwithstanding any other provision of
20 law, the term of imprisonment imposed under this paragraph
21 shall not run concurrently with any other term of imprisonment
22 imposed under any other provision of law. Except for the au-
23 thorization of a term of imprisonment of not more than 5 years
24 made in this paragraph, for the purpose of any other law a vio-
25 lation of section 582(q) shall be deemed to be a misdemeanor.

26 “(5) Whoever knowingly violates subsection (s) or (t) of sec-
27 tion 582 shall be imprisoned for not more than 1 year.

28 “(6)(A)(i) A juvenile who violates section 582(x) shall be im-
29 prisoned not more than 1 year, except that a juvenile described
30 in clause (ii) shall be sentenced to probation on appropriate
31 conditions and shall not be incarcerated unless the juvenile fails
32 to comply with a condition of probation.

33 “(ii) A juvenile is described in this clause if—

34 “(I) the offense of which the juvenile is charged is pos-
35 session of a handgun or ammunition in violation of section
36 582(x)(2); and

1 “(II) the juvenile has not been convicted in any court of
2 an offense (including an offense under section 582(x) or a
3 similar State law, but not including any other offense con-
4 sisting of conduct that if engaged in by an adult would not
5 constitute an offense) or adjudicated as a juvenile delin-
6 quent for conduct that if engaged in by an adult would con-
7 stitute an offense.

8 “(B) A person other than a juvenile who knowingly violates
9 section 582(x)—

10 “(i) shall be imprisoned not more than 1 year; and

11 “(ii) if the person sold, delivered, or otherwise trans-
12 ferred a handgun or ammunition to a juvenile knowing or
13 having reasonable cause to know that the juvenile intended
14 to carry or otherwise possess or discharge or otherwise use
15 the handgun or ammunition in the commission of a crime
16 of violence, shall be imprisoned not more than 10 years.

17 “(7) Whoever knowingly violates section 594 shall be impris-
18 oned not more than 3 years.

19 “(b) Whoever, with intent to commit therewith an offense
20 punishable by imprisonment for a term exceeding one year, or
21 with knowledge or reasonable cause to believe that an offense
22 punishable by imprisonment for a term exceeding one year is
23 to be committed therewith, ships, transports, or receives a fire-
24 arm or any ammunition in interstate or foreign commerce shall
25 be imprisoned not more than ten years.

26 “(c)(1)(A) Except to the extent that a greater minimum sen-
27 tence is otherwise provided by this subsection or by any other
28 provision of law, any person who, during and in relation to any
29 crime of violence or drug trafficking crime (including a crime
30 of violence or drug trafficking crime that provides for an en-
31 hanced punishment if committed by the use of a deadly or dan-
32 gerous weapon or device) for which the person may be pros-
33 ecuted in a court of the United States, uses or carries a fire-
34 arm, or who, in furtherance of any such crime, possesses a fire-
35 arm, shall, in addition to the punishment provided for such
36 crime of violence or drug trafficking crime—

1 “(i) be sentenced to a term of imprisonment of not less
2 than 5 years;

3 “(ii) if the firearm is brandished, be sentenced to a term
4 of imprisonment of not less than 7 years; and

5 “(iii) if the firearm is discharged, be sentenced to a term
6 of imprisonment of not less than 10 years.

7 “(B) If the firearm possessed by a person convicted of a vio-
8 lation of this subsection—

9 “(i) is a short-barreled rifle, short-barreled shotgun, or
10 semiautomatic assault weapon, the person shall be sen-
11 tenced to a term of imprisonment of not less than 10 years;
12 or

13 “(ii) is a machinegun or a destructive device, or is
14 equipped with a firearm silencer or firearm muffler, the
15 person shall be sentenced to a term of imprisonment of not
16 less than 30 years.

17 “(C) In the case of a second or subsequent conviction under
18 this subsection, the person shall—

19 “(i) be sentenced to a term of imprisonment of not less
20 than 25 years; and

21 “(ii) if the firearm involved is a machinegun or a de-
22 structive device, or is equipped with a firearm silencer or
23 firearm muffler, be sentenced to imprisonment for life.

24 “(D) Notwithstanding any other provision of law—

25 “(i) a court shall not place on probation any person con-
26 victed of a violation of this subsection; and

27 “(ii) no term of imprisonment imposed on a person
28 under this subsection shall run concurrently with any other
29 term of imprisonment imposed on the person, including any
30 term of imprisonment imposed for the crime of violence or
31 drug trafficking crime during which the firearm was used,
32 carried, or possessed.

33 “(2) For purposes of this subsection, the term ‘drug traf-
34 ficking crime’ means any felony punishable under the Con-
35 trolled Substances Act (21 U.S.C. 801 et seq.), the Controlled
36 Substances Import and Export Act (21 U.S.C. 951 et seq.), or

1 the Maritime Drug Law Enforcement Act (46 U.S.C. App.
2 1901 et seq.).

3 “(3) For purposes of this subsection the term ‘crime of vio-
4 lence’ means an offense that is a felony and—

5 “(A) has as an element the use, attempted use, or
6 threatened use of physical force against the person or prop-
7 erty of another, or

8 “(B) that by its nature, involves a substantial risk that
9 physical force against the person or property of another
10 may be used in the course of committing the offense.

11 “(4) For purposes of this subsection, the term ‘brandish’
12 means, with respect to a firearm, to display all or part of the
13 firearm, or otherwise make the presence of the firearm known
14 to another person, in order to intimidate that person, regard-
15 less of whether the firearm is directly visible to that person.

16 “(5) Except to the extent that a greater minimum sentence
17 is otherwise provided under this subsection, or by any other
18 provision of law, any person who, during and in relation to any
19 crime of violence or drug trafficking crime (including a crime
20 of violence or drug trafficking crime that provides for an en-
21 hanced punishment if committed by the use of a deadly or dan-
22 gerous weapon or device) for which the person may be pros-
23 ecutied in a court of the United States, uses or carries armor
24 piercing ammunition, or who, in furtherance of any such crime,
25 possesses armor piercing ammunition, shall, in addition to the
26 punishment provided for such crime of violence or drug traf-
27 ficking crime or conviction under this section—

28 “(A) be sentenced to a term of imprisonment of not less
29 than 15 years; and

30 “(B) if death results from the use of such ammunition
31 be punished as provided in section 101.

32 “(d)(1) Any firearm or ammunition involved in or used in
33 any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h),
34 (i), (j), or (k) of section 582, or knowing importation or bring-
35 ing into the United States or any possession thereof any fire-
36 arm or ammunition in violation of section 582(l), or knowing
37 violation of section 584, or willful violation of any other provi-

1 sion of this chapter or any rule or regulation promulgated
2 thereunder, or any violation of any other criminal law of the
3 United States, or any firearm or ammunition intended to be
4 used in any offense referred to in paragraph (3) of this sub-
5 section, where such intent is demonstrated by clear and con-
6 vincing evidence, shall be subject to seizure and forfeiture, and
7 all provisions of the Internal Revenue Code of 1986 relating to
8 the seizure, forfeiture, and disposition of firearms, as defined
9 in section 5845(a) of that Code, shall, so far as applicable, ex-
10 tend to seizures and forfeitures under the provisions of this
11 chapter: Provided, That upon acquittal of the owner or pos-
12 sessor, or dismissal of the charges against him other than upon
13 motion of the Government prior to trial, or lapse of or court
14 termination of the restraining order to which he is subject, the
15 seized or relinquished firearms or ammunition shall be returned
16 forthwith to the owner or possessor or to a person delegated
17 by the owner or possessor unless the return of the firearms or
18 ammunition would place the owner or possessor or his delegate
19 in violation of law. Any action or proceeding for the forfeiture
20 of firearms or ammunition shall be commenced within one hun-
21 dred and twenty days of such seizure.

22 “(2)(A) In any action or proceeding for the return of fire-
23 arms or ammunition seized under the provisions of this chap-
24 ter, the court shall allow the prevailing party, other than the
25 United States, a reasonable attorney’s fee, and the United
26 States shall be liable therefor.

27 “(B) In any other action or proceeding under the provisions
28 of this chapter, the court, when it finds that such action was
29 without foundation, or was initiated vexatiously, frivolously, or
30 in bad faith, shall allow the prevailing party, other than the
31 United States, a reasonable attorney’s fee, and the United
32 States shall be liable therefor.

33 “(C) Only those firearms or quantities of ammunition par-
34 ticularly named and individually identified as involved in or
35 used in any violation of the provisions of this chapter or any
36 rule or regulation issued thereunder, or any other criminal law
37 of the United States or as intended to be used in any offense

1 referred to in paragraph (3) of this subsection, where such in-
2 tent is demonstrated by clear and convincing evidence, shall be
3 subject to seizure, forfeiture, and disposition.

4 “(D) The United States shall be liable for attorneys’ fees
5 under this paragraph only to the extent provided in advance by
6 appropriation Acts.

7 “(3) The offenses referred to in paragraphs (1) and (2)(C)
8 of this subsection are—

9 “(A) any crime of violence, as that term is defined in
10 section 584(c)(3) of this title;

11 “(B) any offense punishable under the Controlled Sub-
12 stances Act (21 U.S.C. 801 et seq.) or the Controlled Sub-
13 stances Import and Export Act (21 U.S.C. 951 et seq.);

14 “(C) any offense described in section 582(a)(1),
15 582(a)(3), 582(a)(5), or 582(b)(3) of this title, where the
16 firearm or ammunition intended to be used in any such of-
17 fense is involved in a pattern of activities which includes a
18 violation of any offense described in section 582(a)(1),
19 582(a)(3), 582(a)(5), or 582(b)(3) of this title;

20 “(D) any offense described in section 582(d) of this title
21 where the firearm or ammunition is intended to be used in
22 such offense by the transferor of such firearm or ammuni-
23 tion;

24 “(E) any offense described in section 582(i), 582(j),
25 582(l), 582(n), or 584(b) of this title; and

26 “(F) any offense which may be prosecuted in a court of
27 the United States which involves the exportation of fire-
28 arms or ammunition.

29 “(e)(1) In the case of a person who violates section 582(g)
30 of this title and has three previous convictions by any court re-
31 ferred to in section 582(g)(1) of this title for a violent felony
32 or a serious drug offense, or both, committed on occasions dif-
33 ferent from one another, such person shall be imprisoned not
34 less than fifteen years, and, notwithstanding any other provi-
35 sion of law, the court shall not suspend the sentence of, or
36 grant a probationary sentence to, such person with respect to
37 the conviction under section 582(g).

1 “(2) As used in this subsection—

2 “(A) the term ‘serious drug offense’ means—

3 “(i) an offense under chapter 17 or the Maritime
4 Drug Law Enforcement Act (46 U.S.C. App. 1901 et
5 seq.) for which a maximum term of imprisonment of
6 ten years or more is prescribed by law; or

7 “(ii) an offense under State law, involving manufac-
8 turing, distributing, or possessing with intent to manu-
9 facture or distribute, a controlled substance (as defined
10 in section 102 of the Controlled Substances Act (21
11 U.S.C. 802)), for which a maximum term of imprison-
12 ment of ten years or more is prescribed by law;

13 “(B) the term ‘violent felony’ means any crime punish-
14 able by imprisonment for a term exceeding one year, or any
15 act of juvenile delinquency involving the use or carrying of
16 a firearm, knife, or destructive device that would be punish-
17 able by imprisonment for such term if committed by an
18 adult, that—

19 “(i) has as an element the use, attempted use, or
20 threatened use of physical force against the person of
21 another; or

22 “(ii) is burglary, arson, or extortion, involves use of
23 explosives, or otherwise involves conduct that presents
24 a serious potential risk of physical injury to another;
25 and

26 “(C) the term ‘conviction’ includes a finding that a per-
27 son has committed an act of juvenile delinquency involving
28 a violent felony.

29 “(f) In the case of a person who knowingly violates section
30 582(p), such person shall be or imprisoned not more than 5
31 years.

32 “(g) Whoever, with the intent to engage in conduct which—

33 “(1) constitutes an offense listed in section 1961(1),

34 “(2) is punishable under chapter 17 or the Maritime
35 Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

1 “(3) violates any State law relating to any controlled
2 substance (as defined in section 102(6) of the Controlled
3 Substances Act (21 U.S.C. 802(6))), or

4 “(4) constitutes a crime of violence (as defined in sub-
5 section (c)(3)),

6 travels from any State or foreign country into any other State
7 and acquires, transfers, or attempts to acquire or transfer, a
8 firearm in such other State in furtherance of such purpose,
9 shall be imprisoned not more than 10 years.

10 “(h) Whoever knowingly transfers a firearm, knowing that
11 such firearm will be used to commit a crime of violence (as de-
12 fined in subsection (c)(3)) or drug trafficking crime (as defined
13 in subsection (c)(2)) shall be imprisoned not more than 10
14 years.

15 “(i)(1) A person who knowingly violates section 582(u) shall
16 be imprisoned not more than 10 years.

17 “(2) Nothing contained in this subsection shall be construed
18 as indicating an intent on the part of Congress to occupy the
19 field in which provisions of this subsection operate to the exclu-
20 sion of State laws on the same subject matter, nor shall any
21 provision of this subsection be construed as invalidating any
22 provision of State law unless such provision is inconsistent with
23 any of the purposes of this subsection.

24 “(j) A person who, in the course of a violation of subsection
25 (c), causes the death of a person through the use of a firearm,
26 shall—

27 “(1) if the killing is a murder (as defined in section
28 1111), be punished by death or by imprisonment for any
29 term of years or for life; and

30 “(2) if the killing is manslaughter (as defined in section
31 1112), be punished as provided in that section.

32 “(k) A person who, with intent to engage in or to promote
33 conduct that—

34 “(1) is punishable under chapter 17 or the Maritime
35 Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

1 “(2) violates any law of a State relating to any controlled
2 substance (as defined in section 102 of the Controlled Sub-
3 stances Act, 21 U.S.C. 802); or

4 “(3) constitutes a crime of violence (as defined in sub-
5 section (c)(3)),

6 smuggles or knowingly brings into the United States a firearm,
7 or attempts to do so, shall be imprisoned not more than 10
8 years.

9 “(l) A person who steals any firearm which is moving as, or
10 is a part of, or which has moved in, interstate or foreign com-
11 merce shall be imprisoned for not more than 10 years.

12 “(m) A person who steals any firearm from a licensed im-
13 porter, licensed manufacturer, licensed dealer, or licensed col-
14 lector shall be imprisoned not more than 10 years.

15 “(n) A person who, with the intent to engage in conduct that
16 constitutes a violation of section 582(a)(1)(A), travels from any
17 State or foreign country into any other State and acquires, or
18 attempts to acquire, a firearm in such other State in further-
19 ance of such purpose shall be imprisoned for not more than 10
20 years.

21 “(o) A person who conspires to commit an offense under sub-
22 section (c) shall be imprisoned for not more than 20 years; and
23 if the firearm is a machinegun or destructive device, or is
24 equipped with a firearm silencer or muffler, shall be imprisoned
25 for any term of years or life.

26 “(p) PENALTIES RELATING TO SECURE GUN STORAGE OR
27 SAFETY DEVICE.—

28 “(1) IN GENERAL.—

29 “(A) SUSPENSION OR REVOCATION OF LICENSE;
30 CIVIL PENALTIES.—With respect to each violation of
31 section 922(z)(1) by a licensed manufacturer, licensed
32 importer, or licensed dealer, the Secretary may, after
33 notice and opportunity for hearing—

34 “(i) suspend for not more than 6 months, or re-
35 voke, the license issued to the licensee under this
36 chapter that was used to conduct the firearms
37 transfer; or

1 “(ii) subject the licensee to a civil penalty in an
2 amount equal to not more than \$2,500.

3 “(B) REVIEW.—An action of the Secretary under
4 this paragraph may be reviewed only as provided under
5 section 923(f).

6 “(2) ADMINISTRATIVE REMEDIES.—The suspension or
7 revocation of a license or the imposition of a civil penalty
8 under paragraph (1) shall not preclude any administrative
9 remedy that is otherwise available to the Secretary.

10 **“§ 585. Exceptions: Relief from disabilities**

11 “(a)(1) The provisions of this chapter, except for sections
12 582(d)(9) and 582(g)(9) and provisions relating to firearms
13 subject to the prohibitions of section 582(p), shall not apply
14 with respect to the transportation, shipment, receipt, posses-
15 sion, or importation of any firearm or ammunition imported
16 for, sold or shipped to, or issued for the use of, the United
17 States or any department or agency thereof or any State or
18 any department, agency, or political subdivision thereof.

19 “(2) The provisions of this chapter, except for provisions re-
20 lating to firearms subject to the prohibitions of section 582(p),
21 shall not apply with respect to (A) the shipment or receipt of
22 firearms or ammunition when sold or issued by the Secretary
23 of the Army pursuant to section 4308 of title 10 before the re-
24 peal of such section by section 1624(a) of the Corporation for
25 the Promotion of Rifle Practice and Firearms Safety Act, and
26 (B) the transportation of any such firearm or ammunition car-
27 ried out to enable a person, who lawfully received such firearm
28 or ammunition from the Secretary of the Army, to engage in
29 military training or in competitions.

30 “(3) Unless otherwise prohibited by this chapter, except for
31 provisions relating to firearms subject to the prohibitions of
32 section 582(p), or any other Federal law, a licensed importer,
33 licensed manufacturer, or licensed dealer may ship to a member
34 of the United States Armed Forces on active duty outside the
35 United States or to clubs, recognized by the Department of De-
36 fense, whose entire membership is composed of such members,
37 and such members or clubs may receive a firearm or ammuni-

1 tion determined by the Attorney General to be generally recog-
2 nized as particularly suitable for sporting purposes and in-
3 tended for the personal use of such member or club.

4 “(4) When established to the satisfaction of the Attorney
5 General to be consistent with the provisions of this chapter, ex-
6 cept for provisions relating to firearms subject to the prohibi-
7 tions of section 582(p), and other applicable Federal and State
8 laws and published ordinances, the Attorney General may au-
9 thorize the transportation, shipment, receipt, or importation
10 into the United States to the place of residence of any member
11 of the United States Armed Forces who is on active duty out-
12 side the United States (or who has been on active duty outside
13 the United States within the 60-day period immediately pre-
14 ceeding the transportation, shipment, receipt, or importation), of
15 any firearm or ammunition which is (A) determined by the At-
16 torney General to be generally recognized as particularly suit-
17 able for sporting purposes, or determined by the Department
18 of Defense to be a type of firearm normally classified as a war
19 souvenir, and (B) intended for the personal use of such mem-
20 ber.

21 “(5) For the purpose of paragraph (3), the term ‘United
22 States’ means each of the several States and the District of Co-
23 lumbia.

24 “(b) A licensed importer, licensed manufacturer, licensed
25 dealer, or licensed collector who is indicted for a crime punish-
26 able by imprisonment for a term exceeding one year, may, not-
27 withstanding any other provision of this chapter, continue oper-
28 ation pursuant to his existing license (if prior to the expiration
29 of the term of the existing license timely application is made
30 for a new license) during the term of such indictment and until
31 any conviction pursuant to the indictment becomes final.

32 “(c) A person who is prohibited from possessing, shipping,
33 transporting, or receiving firearms or ammunition may make
34 application to the Attorney General for relief from the disabil-
35 ities imposed by Federal laws with respect to the acquisition,
36 receipt, transfer, shipment, transportation, or possession of
37 firearms, and the Attorney General may grant such relief if it

1 is established to his satisfaction that the circumstances regard-
2 ing the disability, and the applicant's record and reputation,
3 are such that the applicant will not be likely to act in a manner
4 dangerous to public safety and that the granting of the relief
5 would not be contrary to the public interest. Any person whose
6 application for relief from disabilities is denied by the Attorney
7 General may file a petition with the United States district
8 court for the district in which he resides for a judicial review
9 of such denial. The court may in its discretion admit additional
10 evidence where failure to do so would result in a miscarriage
11 of justice. A licensed importer, licensed manufacturer, licensed
12 dealer, or licensed collector conducting operations under this
13 chapter, who makes application for relief from the disabilities
14 incurred under this chapter, shall not be barred by such dis-
15 ability from further operations under his license pending final
16 action on an application for relief filed pursuant to this section.
17 Whenever the Attorney General grants relief to any person pur-
18 suant to this section he shall promptly publish in the Federal
19 Register notice of such action, together with the reasons there-
20 for.

21 “(d) The Attorney General shall authorize a firearm or am-
22 munition to be imported or brought into the United States or
23 any possession thereof if the firearm or ammunition—

24 “(1) is being imported or brought in for scientific or re-
25 search purposes, or is for use in connection with competi-
26 tion or training pursuant to chapter 401 of title 10;

27 “(2) is an unserviceable firearm, other than a machine-
28 gun as defined in section 5845(b) of the Internal Revenue
29 Code of 1986 (not readily restorable to firing condition),
30 imported or brought in as a curio or museum piece;

31 “(3) is of a type that does not fall within the definition
32 of a firearm as defined in section 5845(a) of the Internal
33 Revenue Code of 1986 and is generally recognized as par-
34 ticularly suitable for or readily adaptable to sporting pur-
35 poses, excluding surplus military firearms, except in any
36 case where the Attorney General has not authorized the im-
37 portation of the firearm pursuant to this paragraph, it

1 shall be unlawful to import any frame, receiver, or barrel
2 of such firearm which would be prohibited if assembled; or
3 “(4) was previously taken out of the United States or a
4 possession by the person who is bringing in the firearm or
5 ammunition.

6 The Attorney General shall permit the conditional importation
7 or bringing in of a firearm or ammunition for examination and
8 testing in connection with the making of a determination as to
9 whether the importation or bringing in of such firearm or am-
10 munition will be allowed under this subsection.

11 “(e) Notwithstanding any other provision of this title, the
12 Attorney General shall authorize the importation of, by any li-
13 censed importer, the following:

14 “(1) All rifles and shotguns listed as curios or relics by
15 the Attorney General pursuant to section 581(11), and

16 “(2) All handguns, listed as curios or relics by the Attor-
17 ney General pursuant to section 581(11), provided that
18 such handguns are generally recognized as particularly
19 suitable for or readily adaptable to sporting purposes.

20 “(f) The Attorney General shall not authorize, under sub-
21 section (d), the importation of any firearm the importation of
22 which is prohibited by section 582(p).

23 **“§ 586. Remedy for erroneous denial of firearm**

24 “Any person denied a firearm pursuant to subsection (s) or
25 (t) of section 582—

26 “(1) due to the provision of erroneous information relat-
27 ing to the person by any State or political subdivision
28 thereof, or by the national instant criminal background
29 check system established under section 103 of the Brady
30 Handgun Violence Prevention Act; or

31 “(2) who was not prohibited from receipt of a firearm
32 pursuant to subsection (g) or (n) of section 582,

33 may bring an action against the State or political subdivision
34 responsible for providing the erroneous information, or respon-
35 sible for denying the transfer, or against the United States, as
36 the case may be, for an order directing that the erroneous in-
37 formation be corrected or that the transfer be approved, as the

1 case may be. In any action under this section, the court, in its
2 discretion, may allow the prevailing party a reasonable attor-
3 ney's fee as part of the costs.

4 **“§ 587. Rules and regulations**

5 “(a) The Attorney General may prescribe only such rules and
6 regulations as are necessary to carry out the provisions of this
7 chapter, including—

8 “(1) regulations providing that a person licensed under
9 this chapter, when dealing with another person so licensed,
10 shall provide such other licensed person a certified copy of
11 this license;

12 “(2) regulations providing for the issuance, at a reason-
13 able cost, to a person licensed under this chapter, of cer-
14 tified copies of his license for use as provided under regula-
15 tions issued under paragraph (1) of this subsection; and

16 “(3) regulations providing for effective receipt and secure
17 storage of firearms relinquished by or seized from persons
18 described in subsection (d)(8) or (g)(8) of section 582.

19 No such rule or regulation prescribed after the date of the en-
20 actment of the Firearms Owners' Protection Act may require
21 that records required to be maintained under this chapter or
22 any portion of the contents of such records, be recorded at or
23 transferred to a facility owned, managed, or controlled by the
24 United States or any State or any political subdivision thereof,
25 nor that any system of registration of firearms, firearms own-
26 ers, or firearms transactions or dispositions be established.
27 Nothing in this section expands or restricts the Attorney Gen-
28 eral's authority to inquire into the disposition of any firearm
29 in the course of a criminal investigation.

30 “(b) The Attorney General shall give not less than ninety
31 days public notice, and shall afford interested parties oppor-
32 tunity for hearing, before prescribing such rules and regula-
33 tions.

34 “(c) The Attorney General shall not prescribe rules or regu-
35 lations that require purchasers of black powder under the ex-
36 emption provided in section 615 to complete affidavits or forms
37 attesting to that exemption.

“§ 588. Interstate transportation of firearms

“Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver’s compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

“§ 589. Carrying of concealed firearms by qualified law enforcement officers

“(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

“(b) This section shall not be construed to supersede or limit the laws of any State that—

“(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

“(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

“(c) As used in this section, the term ‘qualified law enforcement officer’ means an employee of a governmental agency who—

“(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or

1 the incarceration of any person for, any violation of law,
2 and has statutory powers of arrest;

3 “(2) is authorized by the agency to carry a firearm;

4 “(3) is not the subject of any disciplinary action by the
5 agency;

6 “(4) meets standards, if any, established by the agency
7 which require the employee to regularly qualify in the use
8 of a firearm;

9 “(5) is not under the influence of alcohol or another in-
10 toxicating or hallucinatory drug or substance; and

11 “(6) is not prohibited by Federal law from receiving a
12 firearm.

13 “(d) The identification required by this subsection is the
14 photographic identification issued by the governmental agency
15 for which the individual is employed as a law enforcement offi-
16 cer.

17 “(e) As used in this section, the term ‘firearm’ does not in-
18 clude—

19 “(1) any machinegun (as defined in section 5845 of the
20 National Firearms Act);

21 “(2) any firearm silencer (as defined in section 581 of
22 this title); and

23 “(3) any destructive device (as defined in section 581 of
24 this title).

25 **“§ 590. Carrying of concealed firearms by quali-**
26 **fied retired law enforcement officers**

27 “(a) Notwithstanding any other provision of the law of any
28 State or any political subdivision thereof, an individual who is
29 a qualified retired law enforcement officer and who is carrying
30 the identification required by subsection (d) may carry a con-
31 cealed firearm that has been shipped or transported in inter-
32 state or foreign commerce, subject to subsection (b).

33 “(b) This section shall not be construed to supersede or limit
34 the laws of any State that—

35 “(1) permit private persons or entities to prohibit or re-
36 strict the possession of concealed firearms on their prop-
37 erty; or

1 “(2) prohibit or restrict the possession of firearms on
2 any State or local government property, installation, build-
3 ing, base, or park.

4 “(c) As used in this section, the term ‘qualified retired law
5 enforcement officer’ means an individual who—

6 “(1) retired in good standing from service with a public
7 agency as a law enforcement officer, other than for reasons
8 of mental instability;

9 “(2) before such retirement, was authorized by law to
10 engage in or supervise the prevention, detection, investiga-
11 tion, or prosecution of, or the incarceration of any person
12 for, any violation of law, and had statutory powers of ar-
13 rest;

14 “(3)(A) before such retirement, was regularly employed
15 as a law enforcement officer for an aggregate of 15 years
16 or more; or

17 “(B) retired from service with such agency, after com-
18 pleting any applicable probationary period of such service,
19 due to a service-connected disability, as determined by such
20 agency;

21 “(4) has a nonforfeitable right to benefits under the re-
22 tirement plan of the agency;

23 “(5) during the most recent 12-month period, has met,
24 at the expense of the individual, the State’s standards for
25 training and qualification for active law enforcement offi-
26 cers to carry firearms;

27 “(6) is not under the influence of alcohol or another in-
28 toxicating or hallucinatory drug or substance; and

29 “(7) is not prohibited by Federal law from receiving a
30 firearm.

31 “(d) The identification required by this subsection is—

32 “(1) a photographic identification issued by the agency
33 from which the individual retired from service as a law en-
34 forcement officer that indicates that the individual has, not
35 less recently than one year before the date the individual
36 is carrying the concealed firearm, been tested or otherwise
37 found by the agency to meet the standards established by

1 the agency for training and qualification for active law en-
2 forcement officers to carry a firearm of the same type as
3 the concealed firearm; or

4 “(2)(A) a photographic identification issued by the agen-
5 cy from which the individual retired from service as a law
6 enforcement officer; and

7 “(B) a certification issued by the State in which the indi-
8 vidual resides that indicates that the individual has, not
9 less recently than one year before the date the individual
10 is carrying the concealed firearm, been tested or otherwise
11 found by the State to meet the standards established by the
12 State for training and qualification for active law enforce-
13 ment officers to carry a firearm of the same type as the
14 concealed firearm.

15 “(e) As used in this section, the term ‘firearm’ does not in-
16 clude—

17 “(1) any machinegun (as defined in section 5845 of the
18 National Firearms Act);

19 “(2) any firearm silencer (as defined in section 581 of
20 this title); and

21 “(3) a destructive device (as defined in section 581 of
22 this title).

23 **“§ 591. Effect on State law**

24 “No provision of this subchapter shall be construed as indi-
25 cating an intent on the part of the Congress to occupy the field
26 in which such provision operates to the exclusion of the law of
27 any State on the same subject matter, unless there is a direct
28 and positive conflict between such provision and the law of the
29 State so that the two cannot be reconciled or consistently stand
30 together.

31 **“§ 592. Use of restricted ammunition**

32 “(a)(1) Whoever, during and in relation to the commission
33 of a crime of violence or drug trafficking crime (including a
34 crime of violence or drug trafficking crime which provides for
35 an enhanced punishment if committed by the use of a deadly
36 or dangerous weapon or device) for which he may be prosecuted
37 in a court of the United States, uses or carries a firearm and

1 is in possession of armor piercing ammunition capable of being
2 fired in that firearm, shall, in addition to the punishment pro-
3 vided for the commission of such crime of violence or drug traf-
4 ficking crime be sentenced to a term of imprisonment for not
5 less than five years.

6 “(2) For purposes of this subsection, the term ‘drug traf-
7 ficking crime’ means any felony punishable under the Con-
8 trolled Substances Act (21 U.S.C. 801 et seq.), the Controlled
9 Substances Import and Export Act (21 U.S.C. 951 et seq.), or
10 the Maritime Drug Law Enforcement Act (46 U.S.C. App.
11 1901 et seq.).

12 “(b) Notwithstanding any other provision of law, the court
13 shall not suspend the sentence of any person convicted of a vio-
14 lation of this section, nor place the person on probation, nor
15 shall the terms of imprisonment run concurrently with any
16 other terms of imprisonment, including that imposed for the
17 crime in which the armor piercing ammunition was used or
18 possessed.

19 **“§ 593. Possession of firearms and dangerous**
20 **weapons in Federal facilities**

21 “(a) Except as provided in subsection (d), whoever knowingly
22 possesses or causes to be present a firearm or other dangerous
23 weapon in a Federal facility (other than a Federal court facil-
24 ity), or attempts to do so, shall be imprisoned not more than
25 1 year.

26 “(b) Whoever, with intent that a firearm or other dangerous
27 weapon be used in the commission of a crime, knowingly pos-
28 sesses or causes to be present such firearm or dangerous weap-
29 on in a Federal facility, or attempts to do so, shall be impris-
30 oned not more than 5 years.

31 “(c) A person who kills any person in the course of a viola-
32 tion of subsection (a) or (b), or in the course of an attack on
33 a Federal facility involving the use of a firearm or other dan-
34 gerous weapon, or attempts or conspires to do such an act,
35 shall be punished as provided in subchapter A of chapter 10.

36 “(d) Subsection (a) shall not apply to—

1 “(1) the lawful performance of official duties by an offi-
2 cer, agent, or employee of the United States, a State, or
3 a political subdivision thereof, who is authorized by law to
4 engage in or supervise the prevention, detection, investiga-
5 tion, or prosecution of any violation of law;

6 “(2) the possession of a firearm or other dangerous
7 weapon by a Federal official or a member of the Armed
8 Forces if such possession is authorized by law; or

9 “(3) the lawful carrying of firearms or other dangerous
10 weapons in a Federal facility incident to hunting or other
11 lawful purposes.

12 “(e)(1) Except as provided in paragraph (2), whoever know-
13 ingly possesses or causes to be present a firearm in a Federal
14 court facility, or attempts to do so, shall be imprisoned not
15 more than 2 years.

16 “(2) Paragraph (1) shall not apply to conduct which is de-
17 scribed in paragraph (1) or (2) of subsection (d).

18 “(f) Nothing in this section limits the power of a court of
19 the United States to punish for contempt or to promulgate
20 rules or orders regulating, restricting, or prohibiting the posses-
21 sion of weapons within any building housing such court or any
22 of its proceedings, or upon any grounds appurtenant to such
23 building.

24 “(g) As used in this section:

25 “(1) The term ‘Federal facility’ means a building or part
26 thereof owned or leased by the Federal Government, where
27 Federal employees are regularly present for the purpose of
28 performing their official duties.

29 “(2) The term ‘dangerous weapon’ means a weapon, de-
30 vice, instrument, material, or substance, animate or inani-
31 mate, that is used for, or is readily capable of, causing
32 death or serious bodily injury, except that such term does
33 not include a pocket knife with a blade of less than 2 1/
34 2 inches in length.

35 “(3) The term ‘Federal court facility’ means the court-
36 room, judges’ chambers, witness rooms, jury deliberation
37 rooms, attorney conference rooms, prisoner holding cells,

1 offices of the court clerks, the United States attorney, and
2 the United States marshal, probation and parole offices,
3 and adjoining corridors of any court of the United States.

4 “(h) Notice of the provisions of subsections (a) and (b) shall
5 be posted conspicuously at each public entrance to each Federal
6 facility, and notice of subsection (e) shall be posted conspicu-
7 ously at each public entrance to each Federal court facility, and
8 no person shall be convicted of an offense under subsection (a)
9 or (e) with respect to a Federal facility if such notice is not
10 so posted at such facility, unless such person had actual notice
11 of subsection (a) or (e), as the case may be.

12 **“§ 594. Prohibition on purchase, ownership, or**
13 **possession of body armor by violent felons**

14 “(a) IN GENERAL.—Except as provided in subsection (b), it
15 shall be unlawful for a person to purchase, own, or possess
16 body armor, if that person has been convicted of a felony that
17 is—

18 “(1) a crime of violence; or

19 “(2) an offense under State law that would constitute a
20 crime of violence under paragraph (1) if it occurred within
21 the special maritime and territorial jurisdiction of the
22 United States.

23 “(b) AFFIRMATIVE DEFENSE.—

24 “(1) IN GENERAL.—It shall be an affirmative defense
25 under this section that—

26 “(A) the defendant obtained prior written certifi-
27 cation from his or her employer that the defendant’s
28 purchase, use, or possession of body armor was nec-
29 essary for the safe performance of lawful business ac-
30 tivity; and

31 “(B) the use and possession by the defendant were
32 limited to the course of such performance.

33 “(2) EMPLOYER.—In this subsection, the term ‘em-
34 ployer’ means any other individual employed by the defend-
35 ant’s business that supervises defendant’s activity. If that
36 defendant has no supervisor, prior written certification is
37 acceptable from any other employee of the business.

“SUBCHAPTER C—EXPLOSIVES

1 “Sec.

“601. Prohibited transactions involving nuclear materials.

2 **“§ 601. Prohibited transactions involving nuclear**
3 **materials**

4 “(a) Whoever, if one of the circumstances described in sub-
5 section (c) of this section occurs—

6 “(1) without lawful authority, intentionally receives, pos-
7 sesses, uses, transfers, alters, disposes of, or disperses any
8 nuclear material or nuclear byproduct material and—

9 “(A) thereby knowingly causes the death of or seri-
10 ous bodily injury to any person or substantial damage
11 to property or to the environment; or

12 “(B) circumstances exist, or have been represented
13 to the defendant to exist, that are likely to cause the
14 death or serious bodily injury to any person, or sub-
15 stantial damage to property or to the environment;

16 “(2) with intent to deprive another of nuclear material
17 or nuclear byproduct material, knowingly—

18 “(A) takes and carries away nuclear material or nu-
19 clear byproduct material of another without authority;

20 “(B) makes an unauthorized use, disposition, or
21 transfer, of nuclear material or nuclear byproduct ma-
22 terial belonging to another; or

23 “(C) uses fraud and thereby obtains nuclear material
24 or nuclear byproduct material belonging to another;

25 “(3) knowingly—

26 “(A) uses force; or

27 “(B) threatens or places another in fear that any
28 person other than the actor will imminently be subject
29 to bodily injury;

30 and thereby takes nuclear material or nuclear byproduct
31 material belonging to another from the person or presence
32 of any other;

33 “(4) intentionally intimidates any person and thereby ob-
34 tains nuclear material or nuclear byproduct material be-
35 longing to another;

1 “(5) with intent to compel any person, international or-
2 ganization, or governmental entity to do or refrain from
3 doing any act, knowingly threatens to engage in conduct
4 described in paragraph (2)(A) or (3) of this subsection;

5 “(6) knowingly threatens to use nuclear material or nu-
6 clear byproduct material to cause death or serious bodily
7 injury to any person or substantial damage to property or
8 to the environment under circumstances in which the threat
9 may reasonably be understood as an expression of serious
10 purposes;

11 “(7) attempts to commit an offense under paragraph (1),
12 (2), (3), or (4) of this subsection; or

13 “(8) is a party to a conspiracy of two or more persons
14 to commit an offense under paragraph (1), (2), (3), or (4)
15 of this subsection, if any of the parties intentionally en-
16 gages in any conduct in furtherance of such offense;
17 shall be punished as provided in subsection (b) of this section.

18 “(b) The punishment for an offense under—

19 “(1) paragraphs (1) through (7) of subsection (a) of this
20 section is—

21 “(A) a fine under this title; and

22 “(B) imprisonment—

23 “(i) for any term of years or for life (I) if, while
24 committing the offense, the offender knowingly
25 causes the death of any person; or (II) if, while
26 committing an offense under paragraph (1) or (3)
27 of subsection (a) of this section, the offender, under
28 circumstances manifesting extreme indifference to
29 the life of an individual, knowingly engages in any
30 conduct and thereby recklessly causes the death of
31 or serious bodily injury to any person; and

32 “(ii) for not more than 20 years in any other
33 case; and

34 “(2) paragraph (8) of subsection (a) of this section is—

35 “(A) a fine under this title; and

36 “(B) imprisonment—

1 “(i) for not more than 20 years if the offense
2 which is the object of the conspiracy is punishable
3 under paragraph (1)(B)(i); and

4 “(ii) for not more than 10 years in any other
5 case.

6 “(c) The circumstances referred to in subsection (a) of this
7 section are that—

8 “(1) the offense is committed in the United States or the
9 special maritime and territorial jurisdiction of the United
10 States, or the special aircraft jurisdiction of the United
11 States (as defined in section 46501 of title 49);

12 “(2) an offender or a victim is—

13 “(A) a national of the United States; or

14 “(B) a United States corporation or other legal enti-
15 ty;

16 “(3) after the conduct required for the offense occurs the
17 defendant is found in the United States, even if the con-
18 duct required for the offense occurs outside the United
19 States;

20 “(4) the conduct required for the offense occurs with re-
21 spect to the carriage of a consignment of nuclear material
22 or nuclear byproduct material for peaceful purposes by any
23 means of transportation intended to go beyond the territory
24 of the state where the shipment originates beginning with
25 the departure from a facility of the shipper in that state
26 and ending with the arrival at a facility of the receiver
27 within the state of ultimate destination and either of such
28 states is the United States; or

29 “(5) either—

30 “(A) the governmental entity under subsection (a)(5)
31 is the United States; or

32 “(B) the threat under subsection (a)(6) is directed at
33 the United States.

34 “(d) The Attorney General may request assistance from the
35 Secretary of Defense under chapter 18 of title 10 in the en-
36 forcement of this section and the Secretary of Defense may
37 provide such assistance in accordance with chapter 18 of title

1 10, except that the Secretary of Defense may provide such as-
2 sistance through any Department of Defense personnel.

3 “(e)(1) The Attorney General may also request assistance
4 from the Secretary of Defense under this subsection in the en-
5 forcement of this section. Notwithstanding section 1385 of this
6 title, the Secretary of Defense may, in accordance with other
7 applicable law, provide such assistance to the Attorney General
8 if—

9 “(A) an emergency situation exists (as jointly determined
10 by the Attorney General and the Secretary of Defense in
11 their discretion); and

12 “(B) the provision of such assistance will not adversely
13 affect the military preparedness of the United States (as
14 determined by the Secretary of Defense in such Secretary’s
15 discretion).

16 “(2) As used in this subsection, the term ‘emergency situa-
17 tion’ means a circumstance—

18 “(A) that poses a serious threat to the interests of the
19 United States; and

20 “(B) in which—

21 “(i) enforcement of the law would be seriously im-
22 paired if the assistance were not provided; and

23 “(ii) civilian law enforcement personnel are not capa-
24 ble of enforcing the law.

25 “(3) Assistance under this section may include—

26 “(A) use of personnel of the Department of Defense to
27 arrest persons and conduct searches and seizures with re-
28 spect to violations of this section; and

29 “(B) such other activity as is incidental to the enforce-
30 ment of this section, or to the protection of persons or
31 property from conduct that violates this section.

32 “(4) The Secretary of Defense may require reimbursement
33 as a condition of assistance under this section.

34 “(5) The Attorney General may delegate the Attorney Gen-
35 eral’s function under this subsection only to a Deputy, Asso-
36 ciate, or Assistant Attorney General.

37 “(f) As used in this section—

1 “(1) the term ‘nuclear material’ means material con-
2 taining any—

3 “(A) plutonium;

4 “(B) uranium not in the form of ore or ore residue
5 that contains the mixture of isotopes as occurring in
6 nature;

7 “(C) enriched uranium, defined as uranium that con-
8 tains the isotope 233 or 235 or both in such amount
9 that the abundance ratio of the sum of those isotopes
10 to the isotope 238 is greater than the ratio of the iso-
11 tope 235 to the isotope 238 occurring in nature; or

12 “(D) uranium 233;

13 “(2) the term ‘nuclear byproduct material’ means any
14 material containing any radioactive isotope created through
15 an irradiation process in the operation of a nuclear reactor
16 or accelerator;

17 “(3) the term ‘international organization’ means a public
18 international organization designated as such pursuant to
19 section 1 of the International Organizations Immunities
20 Act (22 U.S.C. 288) or a public organization created pur-
21 suant to treaty or other agreement under international law
22 as an instrument through or by which two or more foreign
23 governments engage in some aspect of their conduct of
24 international affairs; and

25 “(4) the term ‘United States corporation or other legal
26 entity’ means any corporation or other entity organized
27 under the laws of the United States or any State, Common-
28 wealth, territory, possession, or district of the United
29 States.

30 “SUBCHAPTER D—IMPORTATION, MANUFACTURE,
31 DISTRIBUTION, AND STORAGE OF EXPLOSIVE MA-
32 TERIALS

“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.

“618. Effect on State law.

1 **“§ 611. Definitions**

2 “In this subchapter the following definitions apply:

3 “(1) The term ‘explosive materials’ means explosives,
4 blasting agents, and detonators.

5 “(2) Except for the purposes of subsections (d), (e), (f),
6 (g), (h), (i), and (j) of section 614, the term ‘explosives’
7 means any chemical compound mixture, or device, the pri-
8 mary or common purpose of which is to function by explo-
9 sion; the term includes, but is not limited to, dynamite and
10 other high explosives, black powder, pellet powder, initi-
11 ating explosives, detonators, safety fuses, squibs, deto-
12 nating cord, igniter cord, and igniters. The Attorney Gen-
13 eral shall publish and revise at least annually in the Fed-
14 eral Register a list of these and any additional explosives
15 which he determines to be within the coverage of this chap-
16 ter. For the purposes of subsections (d), (e), (f), (g), (h),
17 and (i) of section 614, the term ‘explosive’ is defined in
18 subsection (j) of such section 614.

19 “(3) The term ‘blasting agent’ means any material or
20 mixture, consisting of fuel and oxidizer, intended for blast-
21 ing, not otherwise defined as an explosive: Provided, That
22 the finished product, as mixed for use or shipment, cannot
23 be detonated by means of a numbered 8 test blasting cap
24 when unconfined.

25 “(4) The term ‘detonator’ means any device containing
26 a detonating charge that is used for initiating detonation
27 in an explosive; the term includes electric blasting caps of
28 instantaneous and delay types, blasting caps for use with
29 safety fuses and detonating-cord delay connectors.

30 “(5) The term ‘importer’ means any person engaged in
31 the business of importing or bringing explosive materials
32 into the United States for purposes of sale or distribution.

33 “(6) The term ‘manufacturer’ means any person engaged
34 in the business of manufacturing explosive materials for

1 purposes of sale or distribution or for that person's own
2 use.

3 “(7) The term ‘dealer’ means any person engaged in the
4 business of distributing explosive materials at wholesale or
5 retail.

6 “(8) The term ‘permittee’ means any user of explosives
7 for a lawful purpose, who has obtained either a user permit
8 or a limited permit under the provisions of this chapter.

9 “(9) The term ‘Attorney General’ means the Attorney
10 General of the United States.

11 “(10) The term ‘crime punishable by imprisonment for
12 a term exceeding one year’ shall not mean (1) any Federal
13 or State offenses pertaining to antitrust violations, unfair
14 trade practices, restraints of trade, or other similar of-
15 fenses relating to the regulation of business practices as the
16 Attorney General may by regulation designate, or (2) any
17 State offense (other than one involving a firearm or explo-
18 sive) classified by the laws of the State as a misdemeanor
19 and punishable by a term of imprisonment of two years or
20 less.

21 “(11) The term ‘crime punishable by imprisonment for
22 a term exceeding one year’ shall not mean (A) any Federal
23 or State offenses pertaining to antitrust violations, unfair
24 trade practices, restraints of trade, or other similar of-
25 fenses relating to the regulation of business practices as the
26 Attorney General may by regulation designate, or (B) any
27 State offense (other than one involving a firearm or explo-
28 sive) classified by the laws of the State as a misdemeanor
29 and punishable by a term of imprisonment of two years or
30 less.

31 “(12) The term ‘licensee’ means any importer, manufac-
32 turer, or dealer licensed under the provisions of this chap-
33 ter.

34 “(13) The term ‘distribute’ means sell, issue, give, trans-
35 fer, or otherwise dispose of.

36 “(14) The term ‘convention on the Marking of Plastic
37 Explosives’ means the Convention on the Marking of Plas-

1 tic Explosives for the Purpose of Detection, Done at Mon-
2 treal on 1 March 1991.

3 “(15) The term ‘detection agent’ means any one of the
4 substances specified in this subsection when introduced into
5 a plastic explosive or formulated in such explosive as a part
6 of the manufacturing process in such a manner as to
7 achieve homogeneous distribution in the finished explosive,
8 including—

9 “(A) Ethylene glycol dinitrate (EGDN),
10 $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum
11 concentration in the finished explosive is 0.2 percent by
12 mass;

13 “(B) 2,3-Dimethyl-2,3-dinitrobutane (DMNB);

14 “(C) Para-Mononitrotoluene (p-MNT); $C_7H_7NO_2$,
15 molecular weight 137, when the minimum concentra-
16 tion in the finished explosive is 0.5 percent by mass;

17 “(D) Ortho-Mononitrotoluene (o-MNT),
18 $C_7H_7NO_2$, molecular weight 137, when the minimum con-
19 centration in the finished explosive is 0.5 percent by mass;
20 and

21 “(E) any other substance in the concentration speci-
22 fied by the Attorney General, after consultation with
23 the Secretary of State and the Secretary of Defense,
24 that has been added to the table in part 2 of the Tech-
25 nical Annex to the Convention on the Marking of Plas-
26 tic Explosives.

27 “(16) The term ‘plastic explosive’ means an explosive
28 material in flexible or elastic sheet form formulated with
29 one or more high explosives which in their pure form has
30 a vapor pressure less than 10- μ Pa at a tem-
31 perature of 25°C., is formulated with a binder material, and
32 is as a mixture malleable or flexible at normal room tem-
33 perature.

34 “(17) The term ‘alien’ means any person who is not a
35 citizen or national of the United States.

1 “(18) The term ‘responsible person’ means an individual
2 who has the power to direct the management and policies
3 of the applicant pertaining to explosive materials.

4 **“§ 612. Unlawful acts**

5 “(a) It shall be unlawful for any person—

6 “(1) to engage in the business of importing, manufac-
7 turing, or dealing in explosive materials without a license
8 issued under this chapter;

9 “(2) knowingly to withhold information or to make any
10 false or fictitious oral or written statement or to furnish or
11 exhibit any false, fictitious, or misrepresented identifica-
12 tion, intended or likely to deceive for the purpose of obtain-
13 ing explosive materials, or a license, permit, exemption, or
14 relief from disability under the provisions of this chapter;

15 “(3) other than a licensee or permittee knowingly—

16 “(A) to transport, ship, cause to be transported, or
17 receive any explosive materials; or

18 “(B) to distribute explosive materials to any person
19 other than a licensee or permittee; or

20 “(4) who is a holder of a limited permit—

21 “(A) to transport, ship, cause to be transported, or
22 receive in interstate or foreign commerce any explosive
23 materials; or

24 “(B) to receive explosive materials from a licensee or
25 permittee, whose premises are located outside the State
26 of residence of the limited permit holder, or on more
27 than 6 separate occasions, during the period of the per-
28 mit, to receive explosive materials from 1 or more li-
29 censees or permittees whose premises are located within
30 the State of residence of the limited permit holder.

31 “(b) It shall be unlawful for any licensee or permittee to
32 knowingly distribute any explosive materials to any person
33 other than—

34 “(1) a licensee;

35 “(2) a holder of a user permit; or

1 “(3) a holder of a limited permit who is a resident of the
2 State where distribution is made and in which the premises
3 of the transferor are located.

4 “(c) It shall be unlawful for any licensee to distribute explo-
5 sive materials to any person who the licensee has reason to be-
6 lieve intends to transport such explosive materials into a State
7 where the purchase, possession, or use of explosive materials is
8 prohibited or which does not permit its residents to transport
9 or ship explosive materials into it or to receive explosive mate-
10 rials in it.

11 “(d) It shall be unlawful for any person knowingly to dis-
12 tribute explosive materials to any individual who—

13 “(1) is under twenty-one years of age;

14 “(2) has been convicted in any court of a crime punish-
15 able by imprisonment for a term exceeding one year;

16 “(3) is under indictment for a crime punishable by im-
17 prisonment for a term exceeding one year;

18 “(4) is a fugitive from justice;

19 “(5) is an unlawful user of or addicted to any controlled
20 substance (as defined in section 102 of the Controlled Sub-
21 stances Act (21 U.S.C. 802));

22 “(6) has been adjudicated a mental defective or who has
23 been committed to a mental institution;

24 “(7) is an alien, other than an alien who—

25 “(A) is lawfully admitted for permanent residence
26 (as defined in section 101(a)(20) of the Immigration
27 and Nationality Act);

28 “(B) is in lawful nonimmigrant status, is a refugee
29 admitted under section 207 of the Immigration and
30 Nationality Act (8 U.S.C. 1157), or is in asylum status
31 under section 208 of the Immigration and Nationality
32 Act (8 U.S.C. 1158), and—

33 “(i) is a foreign law enforcement officer of a
34 friendly foreign government, as determined by the
35 Attorney General in consultation with the Secretary
36 of State, entering the United States on official law
37 enforcement business, and the shipping, trans-

1 porting, possession, or receipt of explosive materials
2 is in furtherance of this official law enforcement
3 business; or

4 “(ii) is a person having the power to direct or
5 cause the direction of the management and policies
6 of a corporation, partnership, or association li-
7 censed pursuant to section 843(a), and the ship-
8 ping, transporting, possession, or receipt of explo-
9 sive materials is in furtherance of such power;

10 “(C) is a member of a North Atlantic Treaty Organi-
11 zation (NATO) or other friendly foreign military force,
12 as determined by the Attorney General in consultation
13 with the Secretary of Defense, who is present in the
14 United States under military orders for training or
15 other military purpose authorized by the United States
16 and the shipping, transporting, possession, or receipt of
17 explosive materials is in furtherance of the authorized
18 military purpose; or

19 “(D) is lawfully present in the United States in co-
20 operation with the Director of Central Intelligence, and
21 the shipment, transportation, receipt, or possession of
22 the explosive materials is in furtherance of such co-
23 operation;

24 “(8) has been discharged from the armed forces under
25 dishonorable conditions; or

26 “(9) having been a citizen of the United States, has re-
27 nounced the citizenship of that person.

28 “(e) It shall be unlawful for any licensee knowingly to dis-
29 tribute any explosive materials to any person in any State
30 where the purchase, possession, or use by such person of such
31 explosive materials would be in violation of any State law or
32 any published ordinance applicable at the place of distribution.

33 “(f) It shall be unlawful for any licensee or permittee will-
34 fully to manufacture, import, purchase, distribute, or receive
35 explosive materials without making such records as the Attor-
36 ney General may by regulation require, including, but not lim-
37 ited to, a statement of intended use, the name, date, place of

1 birth, social security number or taxpayer identification number,
2 and place of residence of any natural person to whom explosive
3 materials are distributed. If explosive materials are distributed
4 to a corporation or other business entity, such records shall in-
5 clude the identity and principal and local places of business and
6 the name, date, place of birth, and place of residence of the
7 natural person acting as agent of the corporation or other busi-
8 ness entity in arranging the distribution.

9 “(g) It shall be unlawful for any licensee or permittee know-
10 ingly to make any false entry in any record which he is re-
11 quired to keep pursuant to this section or regulations promul-
12 gated under section 617.

13 “(h) It shall be unlawful for any person to receive, possess,
14 transport, ship, conceal, store, barter, sell, dispose of, or pledge
15 or accept as security for a loan, any stolen explosive materials
16 which are moving as, which are part of, which constitute, or
17 which have been shipped or transported in, interstate or foreign
18 commerce, either before or after such materials were stolen,
19 knowing or having reasonable cause to believe that the explo-
20 sive materials were stolen.

21 “(i) It shall be unlawful for any person—

22 “(1) who is under indictment for, or who has been con-
23 victed in any court of, a crime punishable by imprisonment
24 for a term exceeding one year;

25 “(2) who is a fugitive from justice;

26 “(3) who is an unlawful user of or addicted to any con-
27 trolled substance (as defined in section 102 of the Con-
28 trolled Substances Act (21 U.S.C. 802));

29 “(4) who has been adjudicated as a mental defective or
30 who has been committed to a mental institution;

31 “(5) who is an alien, other than an alien who—

32 “(A) is lawfully admitted for permanent residence
33 (as that term is defined in section 101(a)(20) of the
34 Immigration and Nationality Act);

35 “(B) is in lawful nonimmigrant status, is a refugee
36 admitted under section 207 of the Immigration and
37 Nationality Act (8 U.S.C. 1157), or is in asylum status

1 under section 208 of the Immigration and Nationality
2 Act (8 U.S.C. 1158), and—

3 “(i) is a foreign law enforcement officer of a
4 friendly foreign government, as determined by the
5 Attorney General in consultation with the Secretary
6 of State, entering the United States on official law
7 enforcement business, and the shipping, trans-
8 porting, possession, or receipt of explosive materials
9 is in furtherance of this official law enforcement
10 business; or

11 “(ii) is a person having the power to direct or
12 cause the direction of the management and policies
13 of a corporation, partnership, or association li-
14 censed pursuant to section 843(a), and the ship-
15 ping, transporting, possession, or receipt of explo-
16 sive materials is in furtherance of such power;

17 “(C) is a member of a North Atlantic Treaty Organi-
18 zation (NATO) or other friendly foreign military force,
19 as determined by the Attorney General in consultation
20 with the Secretary of Defense, who is present in the
21 United States under military orders for training or
22 other military purpose authorized by the United States
23 and the shipping, transporting, possession, or receipt of
24 explosive materials is in furtherance of the authorized
25 military purpose; or

26 “(D) is lawfully present in the United States in co-
27 operation with the Director of Central Intelligence, and
28 the shipment, transportation, receipt, or possession of
29 the explosive materials is in furtherance of such co-
30 operation;

31 “(6) who has been discharged from the armed forces
32 under dishonorable conditions; or

33 “(7) who, having been a citizen of the United States, has
34 renounced the citizenship of that person.

35 “(j) It shall be unlawful for any person to store any explosive
36 material in a manner not in conformity with regulations pro-
37 mulgated by the Attorney General. In promulgating such regu-

1 lations, the Attorney General shall take into consideration the
2 class, type, and quantity of explosive materials to be stored, as
3 well as the standards of safety and security recognized in the
4 explosives industry.

5 “(k) It shall be unlawful for any person who has knowledge
6 of the theft or loss of any explosive materials from his stock,
7 to fail to report such theft or loss within twenty-four hours of
8 discovery thereof, to the Attorney General and to appropriate
9 local authorities.

10 “(l) It shall be unlawful for any person to manufacture any
11 plastic explosive that does not contain a detection agent.

12 “(m)(1) It shall be unlawful for any person to import or
13 bring into the United States, or export from the United States,
14 any plastic explosive that does not contain a detection agent.

15 “(2) This subsection does not apply to the importation or
16 bringing into the United States, or the exportation from the
17 United States, of any plastic explosive that was imported or
18 brought into, or manufactured in the United States prior to the
19 date of enactment of this subsection by or on behalf of any
20 agency of the United States performing military or police func-
21 tions (including any military reserve component) or by or on
22 behalf of the National Guard of any State, not later than 15
23 years after the date of entry into force of the Convention on
24 the Marking of Plastic Explosives, with respect to the United
25 States.

26 “(n)(1) It shall be unlawful for any person to ship, trans-
27 port, transfer, receive, or possess any plastic explosive that does
28 not contain a detection agent.

29 “(2) This subsection does not apply to—

30 “(A) the shipment, transportation, transfer, receipt, or
31 possession of any plastic explosive that was imported or
32 brought into, or manufactured in the United States prior
33 to the date of enactment of this subsection by any person
34 during the period beginning on that date and ending 3
35 years after that date of enactment; or

36 “(B) the shipment, transportation, transfer, receipt, or
37 possession of any plastic explosive that was imported or

1 brought into, or manufactured in the United States prior
2 to the date of enactment of this subsection by or on behalf
3 of any agency of the United States performing a military
4 or police function (including any military reserve compo-
5 nent) or by or on behalf of the National Guard of any
6 State, not later than 15 years after the date of entry into
7 force of the Convention on the Marking of Plastic Explo-
8 sives, with respect to the United States.

9 “(o) It shall be unlawful for any person, other than an agen-
10 cy of the United States (including any military reserve compo-
11 nent) or the National Guard of any State, possessing any plas-
12 tic explosive on the date of enactment of this subsection, to fail
13 to report to the Attorney General within 120 days after such
14 date of enactment the quantity of such explosives possessed,
15 the manufacturer or importer, any marks of identification on
16 such explosives, and such other information as the Attorney
17 General may prescribe by regulation.

18 “(p) DISTRIBUTION OF INFORMATION RELATING TO EXPLO-
19 SIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DE-
20 STRUCTION.—

21 “(1) DEFINITIONS.—In this subsection—

22 “(A) the term ‘destructive device’ has the same
23 meaning as in section 581;

24 “(B) the term ‘explosive’ has the same meaning as
25 in section 614; and

26 “(C) the term ‘weapon of mass destruction’ has the
27 same meaning as in section 271.

28 “(2) PROHIBITION.—It shall be unlawful for any per-
29 son—

30 “(A) to teach or demonstrate the making or use of
31 an explosive, a destructive device, or a weapon of mass
32 destruction, or to distribute by any means information
33 pertaining to, in whole or in part, the manufacture or
34 use of an explosive, destructive device, or weapon of
35 mass destruction, with the intent that the teaching,
36 demonstration, or information be used for, or in fur-

1 therance of, an activity that constitutes a Federal
2 crime of violence; or

3 “(B) to teach or demonstrate to any person the mak-
4 ing or use of an explosive, a destructive device, or a
5 weapon of mass destruction, or to distribute to any per-
6 son, by any means, information pertaining to, in whole
7 or in part, the manufacture or use of an explosive, de-
8 structive device, or weapon of mass destruction, know-
9 ing that such person intends to use the teaching, dem-
10 onstration, or information for, or in furtherance of, an
11 activity that constitutes a Federal crime of violence.

12 **“§ 613. Licenses and user permits**

13 “(a) An application for a user permit or limited permit or
14 a license to import, manufacture, or deal in explosive materials
15 shall be in such form and contain such information as the At-
16 torney General shall by regulation prescribe, including the
17 names of and appropriate identifying information regarding all
18 employees who will be authorized by the applicant to possess
19 explosive materials, as well as fingerprints and a photograph of
20 each responsible person. Each applicant for a license or permit
21 shall pay a fee to be charged as set by the Attorney General,
22 said fee not to exceed \$50 for a limited permit and \$200 for
23 any other license or permit. Each license or user permit shall
24 be valid for not longer than 3 years from the date of issuance
25 and each limited permit shall be valid for not longer than 1
26 year from the date of issuance. Each license or permit shall be
27 renewable upon the same conditions and subject to the same
28 restrictions as the original license or permit, and upon payment
29 of a renewal fee not to exceed one-half of the original fee.

30 “(b) Upon the filing of a proper application and payment of
31 the prescribed fee, and subject to the provisions of this chapter
32 and other applicable laws, the Attorney General shall issue to
33 such applicant the appropriate license or permit if—

34 “(1) the applicant (or, if the applicant is a corporation,
35 partnership, or association, each responsible person with re-
36 spect to the applicant) is not a person described in section
37 612(i);

1 “(2) the applicant has not willfully violated any of the
2 provisions of this chapter or regulations issued hereunder;

3 “(3) the applicant has in a State premises from which
4 he conducts or intends to conduct business;

5 “(4)(A) the Secretary verifies by inspection or, if the ap-
6 plication is for an original limited permit or the first or sec-
7 ond renewal of such a permit, by such other means as the
8 Attorney General determines appropriate, that the appli-
9 cant has a place of storage for explosive materials which
10 meets such standards of public safety and security against
11 theft as the Attorney General by regulations shall pre-
12 scribe; and

13 “(B) subparagraph (A) shall not apply to an applicant
14 for the renewal of a limited permit if the Secretary has
15 verified, by inspection within the preceding 3 years, the
16 matters described in subparagraph (A) with respect to the
17 applicant;

18 “(5) the applicant has demonstrated and certified in
19 writing that he is familiar with all published State laws and
20 local ordinances relating to explosive materials for the loca-
21 tion in which he intends to do business;

22 “(6) none of the employees of the applicant who will be
23 authorized by the applicant to possess explosive materials
24 is any person described in section 612(i); and

25 “(7) in the case of a limited permit, the applicant has
26 certified in writing that the applicant will not receive explo-
27 sive materials on more than 6 separate occasions during
28 the 12-month period for which the limited permit is valid.

29 “(c) The Attorney General shall approve or deny an applica-
30 tion within a period of 90 days for licenses and permits, begin-
31 ning on the date such application is received by the Attorney
32 General.

33 “(d) The Attorney General may revoke any license or permit
34 issued under this section if in the opinion of the Attorney Gen-
35 eral the holder thereof has violated any provision of this chap-
36 ter or any rule or regulation prescribed by the Attorney Gen-
37 eral under this chapter, or has become ineligible to acquire ex-

1 explosive materials under section 612(d). The Attorney General's
2 action under this subsection may be reviewed only as provided
3 in subsection (e)(2) of this section.

4 “(e)(1) Any person whose application is denied or whose li-
5 cense or permit is revoked shall receive a written notice from
6 the Attorney General stating the specific grounds upon which
7 such denial or revocation is based. Any notice of a revocation
8 of a license or permit shall be given to the holder of such li-
9 cense or permit prior to or concurrently with the effective date
10 of the revocation.

11 “(2) If the Attorney General denies an application for, or re-
12 vokes a license, or permit, he shall, upon request by the ag-
13 grieved party, promptly hold a hearing to review his denial or
14 revocation. In the case of a revocation, the Attorney General
15 may upon a request of the holder stay the effective date of the
16 revocation. A hearing under this section shall be at a location
17 convenient to the aggrieved party. The Attorney General shall
18 give written notice of his decision to the aggrieved party within
19 a reasonable time after the hearing. The aggrieved party may,
20 within sixty days after receipt of the Secretary's written deci-
21 sion, file a petition with the United States court of appeals for
22 the district in which he resides or has his principal place of
23 business for a judicial review of such denial or revocation, pur-
24 suant to sections 701 through 706 of title 5.

25 “(f) Licensees and holders of user permits shall make avail-
26 able for inspection at all reasonable times their records kept
27 pursuant to this chapter or the regulations issued hereunder,
28 and licensees and permittees shall submit to the Attorney Gen-
29 eral such reports and information with respect to such records
30 and the contents thereof as he shall by regulations prescribe.
31 The Attorney General may enter during business hours the
32 premises (including places of storage) of any licensee or holder
33 of a user permit, for the purpose of inspecting or examining
34 (1) any records or documents required to be kept by such li-
35 censee or permittee, under the provisions of this chapter or reg-
36 ulations issued hereunder, and (2) any explosive materials kept
37 or stored by such licensee or permittee at such premises. Upon

1 the request of any State or any political subdivision thereof, the
2 Attorney General may make available to such State or any po-
3 litical subdivision thereof, any information which he may obtain
4 by reason of the provisions of this chapter with respect to the
5 identification of persons within such State or political subdivi-
6 sion thereof, who have purchased or received explosive mate-
7 rials, together with a description of such explosive materials.
8 The Attorney General may inspect the places of storage for ex-
9 plosive materials of an applicant for a limited permit or, at the
10 time of renewal of such permit, a holder of a limited permit,
11 only as provided in subsection (b)(4).

12 “(g) Licenses and user permits issued under the provisions
13 of subsection (b) of this section shall be kept posted and kept
14 available for inspection on the premises covered by the license
15 and permit.

16 “(h)(1) If the Attorney General receives, from an employer,
17 the name and other identifying information of a responsible
18 person or an employee who will be authorized by the employer
19 to possess explosive materials in the course of employment with
20 the employer, the Secretary shall determine whether the re-
21 sponsible person or employee is one of the persons described in
22 any paragraph of section 612(i). In making the determination,
23 the Attorney General may take into account a letter or docu-
24 ment issued under paragraph (2).

25 “(2)(A) If the Attorney General determines that the respon-
26 sible person or the employee is not one of the persons described
27 in any paragraph of section 612(i), the Attorney General shall
28 notify the employer in writing or electronically of the deter-
29 mination and issue, to the responsible person or employee, a
30 letter of clearance, which confirms the determination.

31 “(B) If the Attorney General determines that the responsible
32 person or employee is one of the persons described in any para-
33 graph of section 612(i), the Attorney General shall notify the
34 employer in writing or electronically of the determination and
35 issue to the responsible person or the employee, as the case
36 may be, a document that—

37 “(i) confirms the determination;

1 “(ii) explains the grounds for the determination;
2 “(iii) provides information on how the disability may be
3 relieved; and

4 “(iv) explains how the determination may be appealed.

5 “(i) FURNISHING OF SAMPLES.—

6 “(1) In general—Licensed manufacturers and licensed im-
7 porters and persons who manufacture or import explosive
8 materials or ammonium nitrate shall, when required by let-
9 ter issued by the Secretary, furnish—

10 “(A) samples of such explosive materials or ammo-
11 nium nitrate;

12 “(B) information on chemical composition of those
13 products; and

14 “(C) any other information that the Secretary deter-
15 mines is relevant to the identification of the explosive
16 materials or to identification of the ammonium nitrate.

17 “(2) REIMBURSEMENT.—The Attorney General shall, by
18 regulation, authorize reimbursement of the fair market
19 value of samples furnished pursuant to this subsection, as
20 well as the reasonable costs of shipment.

21 **“§ 614. Penalties**

22 “(a) Any person—

23 “(1) who violates any of subsections (a) through (i) or
24 (l) through (o) of section 614 shall be imprisoned for not
25 more than 10 years; and

26 “(2) violates subsection (p)(2) of section 612, shall be im-
27 prisoned not more than 20 years.

28 “(b) Any person who violates any other provision of section
29 612 of this chapter shall be imprisoned not more than one year.

30 “(c)(1) Any explosive materials involved or used or intended
31 to be used in any violation of the provisions of this chapter or
32 any other rule or regulation promulgated thereunder or any
33 violation of any criminal law of the United States shall be sub-
34 ject to seizure and forfeiture, and all provisions of the Internal
35 Revenue Code of 1986 relating to the seizure, forfeiture, and
36 disposition of firearms, as defined in section 5845(a) of that

1 Code, shall, so far as applicable, extend to seizures and forfeit-
2 ures under the provisions of this chapter.

3 “(2) Notwithstanding paragraph (1), in the case of the sei-
4 zure of any explosive materials for any offense for which the
5 materials would be subject to forfeiture in which it would be
6 impracticable or unsafe to remove the materials to a place of
7 storage or would be unsafe to store them, the seizing officer
8 may destroy the explosive materials forthwith. Any destruction
9 under this paragraph shall be in the presence of at least 1
10 credible witness. The seizing officer shall make a report of the
11 seizure and take samples as the Attorney General may by regu-
12 lation prescribe.

13 “(3) Within 60 days after any destruction made pursuant to
14 paragraph (2), the owner of (including any person having an
15 interest in) the property so destroyed may make application to
16 the Attorney General for reimbursement of the value of the
17 property. If the claimant establishes to the satisfaction of the
18 Attorney General that—

19 “(A) the property has not been used or involved in a vio-
20 lation of law; or

21 “(B) any unlawful involvement or use of the property
22 was without the claimant’s knowledge, consent, or willful
23 blindness,

24 the Attorney General shall make an allowance to the claimant
25 not exceeding the value of the property destroyed.

26 “(d) Whoever transports or receives, or attempts to transport
27 or receive, in interstate or foreign commerce any explosive with
28 the knowledge or intent that it will be used to kill, injure, or
29 intimidate any individual or unlawfully to damage or destroy
30 any building, vehicle, or other real or personal property, shall
31 be imprisoned for not more than ten years; and if personal in-
32 jury results to any person, including any public safety officer
33 performing duties as a direct or proximate result of conduct
34 prohibited by this subsection, shall be imprisoned for not more
35 than twenty years; and if death results to any person, including
36 any public safety officer performing duties as a direct or proxi-
37 mate result of conduct prohibited by this subsection, shall be

1 subject to imprisonment for any term of years, or to the death
2 penalty or to life imprisonment.

3 “(e) Whoever, through the use of the mail, telephone, tele-
4 graph, or other instrument of interstate or foreign commerce,
5 or in or affecting interstate or foreign commerce, willfully
6 makes any threat, or maliciously conveys false information
7 knowing the same to be false, concerning an attempt or alleged
8 attempt being made, or to be made, to kill, injure, or intimidate
9 any individual or unlawfully to damage or destroy any building,
10 vehicle, or other real or personal property by means of fire or
11 an explosive shall be imprisoned for not more than 10 years.

12 “(f)(1) Whoever maliciously damages or destroys, or at-
13 tempts to damage or destroy, by means of fire or an explosive,
14 any building, vehicle, or other personal or real property in
15 whole or in part owned or possessed by, or leased to, the
16 United States, or any department or agency thereof, or any in-
17 stitution or organization receiving Federal financial assistance,
18 shall be imprisoned for not less than 5 years and not more than
19 20 years.

20 “(2) Whoever engages in conduct prohibited by this sub-
21 section, and as a result of such conduct, directly or proximately
22 causes personal injury or creates a substantial risk of injury to
23 any person, including any public safety officer performing du-
24 ties, shall be imprisoned for not less than 7 years and not more
25 than 40 years.

26 “(3) Whoever engages in conduct prohibited by this sub-
27 section, and as a result of such conduct directly or proximately
28 causes the death of any person, including any public safety offi-
29 cer performing duties, shall be subject to the death penalty, or
30 imprisoned for not less than 20 years or for life.

31 “(g)(1) Except as provided in paragraph (2), whoever pos-
32 sesses an explosive in an airport that is subject to the regu-
33 latory authority of the Federal Aviation Administration, or in
34 any building in whole or in part owned, possessed, or used by,
35 or leased to, the United States or any department or agency
36 thereof, except with the written consent of the agency, depart-
37 ment, or other person responsible for the management of such

1 building or airport, shall be imprisoned for not more than five
2 years.

3 “(2) The provisions of this subsection shall not be applicable
4 to—

5 “(A) the possession of ammunition (as that term is de-
6 fined in regulations issued pursuant to this chapter) in an
7 airport that is subject to the regulatory authority of the
8 Federal Aviation Administration if such ammunition is ei-
9 ther in checked baggage or in a closed container; or

10 “(B) the possession of an explosive in an airport if the
11 packaging and transportation of such explosive is exempt
12 from, or subject to and in accordance with, regulations of
13 the Pipeline and Hazardous Materials Safety Administra-
14 tion for the handling of hazardous materials pursuant to
15 chapter 51 of title 49.

16 “(h) Whoever—

17 “(1) uses fire or an explosive to commit any felony which
18 may be prosecuted in a court of the United States, or

19 “(2) carries an explosive during the commission of any
20 felony which may be prosecuted in a court of the United
21 States,

22 including a felony which provides for an enhanced punishment
23 if committed by the use of a deadly or dangerous weapon or
24 device shall, in addition to the punishment provided for such
25 felony, be sentenced to imprisonment for 10 years. In the case
26 of a second or subsequent conviction under this subsection,
27 such person shall be sentenced to imprisonment for 20 years.
28 Notwithstanding any other provision of law, the court shall not
29 place on probation or suspend the sentence of any person con-
30 victed of a violation of this subsection, nor shall the term of
31 imprisonment imposed under this subsection run concurrently
32 with any other term of imprisonment including that imposed
33 for the felony in which the explosive was used or carried.

34 “(i) Whoever maliciously damages or destroys, or attempts to
35 damage or destroy, by means of fire or an explosive, any build-
36 ing, vehicle, or other real or personal property used in inter-
37 state or foreign commerce or in any activity affecting interstate

1 or foreign commerce shall be imprisoned for not less than 5
2 years and not more than 20 years; and if personal injury re-
3 sults to any person, including any public safety officer per-
4 forming duties as a direct or proximate result of conduct pro-
5 hibited by this subsection, shall be imprisoned for not less than
6 7 years and not more than 40 years; and if death results to
7 any person, including any public safety officer performing du-
8 ties as a direct or proximate result of conduct prohibited by
9 this subsection, shall also be subject to imprisonment for any
10 term of years, or to the death penalty or to life imprisonment.

11 “(j) For the purposes of subsections (d), (e), (f), (g), (h),
12 and (i) of this section and section 612(p)(2), the term ‘explo-
13 sive’ means gunpowders, powders used for blasting, all forms
14 of high explosives, blasting materials, fuzes (other than electric
15 circuit breakers), detonators, and other detonating agents,
16 smokeless powders, other explosive or incendiary devices within
17 the meaning of paragraph (5) of section 232 of this title, and
18 any chemical compounds, mechanical mixture, or device that
19 contains any oxidizing and combustible units, or other ingredi-
20 ents, in such proportions, quantities, or packing that ignition
21 by fire, by friction, by concussion, by percussion, or by detona-
22 tion of the compound, mixture, or device or any part thereof
23 may cause an explosion.

24 “(k) A person who steals any explosives materials which are
25 moving as, or are a part of, or which have moved in, interstate
26 or foreign commerce shall be imprisoned for not more than 10
27 years.

28 “(l) A person who steals any explosive material from a li-
29 censed importer, licensed manufacturer, or licensed dealer, or
30 from any permittee shall be imprisoned not more than 10
31 years.

32 “(m) A person who conspires to commit an offense under
33 subsection (h) shall be imprisoned for any term of years not
34 exceeding 20.

35 “(n) Except as otherwise provided in this section, a person
36 who conspires to commit any offense defined in this chapter
37 shall be subject to the same penalties (other than the penalty

1 of death) as the penalties prescribed for the offense the com-
2 mission of which was the object of the conspiracy.

3 “(o) Whoever knowingly transfers any explosive materials,
4 knowing or having reasonable cause to believe that such explo-
5 sive materials will be used to commit a crime of violence (as
6 defined in section 584(c)(3)) or drug trafficking crime (as de-
7 fined in section 584(c)(2)) shall be subject to the same pen-
8 alties as may be imposed under subsection (h) for a first con-
9 viction for the use or carrying of an explosive material.

10 “(p) THEFT REPORTING REQUIREMENT.—

11 “(1) IN GENERAL.—A holder of a license or permit who
12 knows that explosive materials have been stolen from that
13 licensee or permittee, shall report the theft to the Attorney
14 General not later than 24 hours after the discovery of the
15 theft.

16 “(2) PENALTY.—A holder of a license or permit who
17 does 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) Except in the case of subsection (l), (m), (n), or (o) of
21 section 612 and subsections (d), (e), (f), (g), (h), and (i) of sec-
22 tion 614 of this title, this chapter does not apply to—

23 “(1) any aspect of the transportation of explosive mate-
24 rials via railroad, water, highway, or air which are regu-
25 lated by the United States Department of Transportation
26 and agencies thereof, and which pertain to safety;

27 “(2) the use of explosive materials in medicines and me-
28 dicinal agents in the forms prescribed by the official United
29 States Pharmacopeia, or the National Formulary;

30 “(3) the transportation, shipment, receipt, or importa-
31 tion of explosive materials for delivery to any agency of the
32 United States or to any State or political subdivision there-
33 of;

34 “(4) small arms ammunition and components thereof;

35 “(5) commercially manufactured black powder in quan-
36 tities not to exceed fifty pounds, percussion caps, safety
37 and pyrotechnic fuses, quills, quick and slow matches, and

1 friction primers, intended to be used solely for sporting,
2 recreational, or cultural purposes in antique firearms as de-
3 fined in section 581(a)(16) of title 18 of the United States
4 Code, or in antique devices as exempted from the term ‘de-
5 structive device’ in section 581(a)(4) of title 18 of the
6 United States Code; and

7 “(6) the manufacture under the regulation of the mili-
8 tary department of the United States of explosive materials
9 for, or their distribution to or storage or possession by the
10 military or naval services or other agencies of the United
11 States; or to arsenals, navy yards, depots, or other estab-
12 lishments owned by, or operated by or on behalf of, the
13 United States.

14 “(b)(1) A person who is prohibited from shipping, trans-
15 porting, receiving, or possessing any explosive under section
16 612(i) may apply to the Attorney General for relief from such
17 prohibition.

18 “(2) The Attorney General may grant the relief requested
19 under paragraph (1) if the Attorney General determines that
20 the circumstances regarding the applicability of section 612(i),
21 and the applicant’s record and reputation, are such that the
22 applicant will not be likely to act in a manner dangerous to
23 public safety and that the granting of such relief is not con-
24 trary to the public interest.

25 “(3) A licensee or permittee who applies for relief, under this
26 subsection, from the disabilities incurred under this chapter as
27 a result of an indictment for or conviction of a crime punish-
28 able by imprisonment for a term exceeding 1 year shall not be
29 barred by such disability from further operations under the li-
30 cense or permit pending final action on an application for relief
31 filed pursuant to this section.

32 “(c) It is an affirmative defense against any proceeding in-
33 volving subsections (l) through (o) of section 612 if the pro-
34 ponent proves by a preponderance of the evidence that the plas-
35 tic explosive—

36 “(1) consisted of a small amount of plastic explosive in-
37 tended for and utilized solely in lawful—

1 “(A) research, development, or testing of new or
2 modified explosive materials;

3 “(B) training in explosives detection or development
4 or testing of explosives detection equipment; or

5 “(C) forensic science purposes; or

6 “(2) was plastic explosive that, within 3 years after the
7 date of enactment of the Antiterrorism and Effective Death
8 Penalty Act of 1996, will be or is incorporated in a military
9 device within the territory of the United States and re-
10 mains an integral part of such military device, or is in-
11 tended to be, or is incorporated in, and remains an integral
12 part of a military device that is intended to become, or has
13 become, the property of any agency of the United States
14 performing military or police functions (including any mili-
15 tary reserve component) or the National Guard of any
16 State, wherever such device is located.

17 “(3) For purposes of this subsection, the term ‘military
18 device’ includes, shells, bombs, projectiles, mines, missiles,
19 rockets, shaped charges, grenades, perforators, and similar
20 devices lawfully manufactured exclusively for military or
21 police purposes.

22 **“§ 616. Additional powers of the Attorney General**

23 “(a) The Attorney General is authorized to inspect the site
24 of any accident, or fire, in which there is reason to believe that
25 explosive materials were involved, in order that if any such inci-
26 dent has been brought about by accidental means, precautions
27 may be taken to prevent similar accidents from occurring. In
28 order to carry out the purpose of this subsection, the Attorney
29 General is authorized to enter into or upon any property where
30 explosive materials have been used, are suspected of having
31 been used, or have been found in an otherwise unauthorized lo-
32 cation. Nothing in this chapter shall be construed as modifying
33 or otherwise affecting in any way the investigative authority of
34 any other Federal agency. In addition to any other investiga-
35 tory authority they have with respect to violations of provisions
36 of this chapter, the Federal Bureau of Investigation, together
37 with the Bureau of Alcohol, Tobacco, Firearms, and Explosives,

1 shall have authority to conduct investigations with respect to
 2 violations of subsection (d), (e), (f), (g), (h), or (i) of section
 3 614.

4 “(b) The Attorney General is authorized to establish a na-
 5 tional repository of information on incidents involving arson
 6 and the suspected criminal misuse of explosives. All Federal
 7 agencies having information concerning such incidents shall re-
 8 port the information to the Attorney General pursuant to such
 9 regulations as deemed necessary to carry out the provisions of
 10 this subsection. The repository shall also contain information
 11 on incidents voluntarily reported to the Attorney General by
 12 State and local authorities.

13 **“§ 617. Rules and regulations**

14 “The administration of this subchapter shall be vested in the
 15 Attorney General. The Attorney General may prescribe such
 16 rules and regulations as he deems reasonably necessary to
 17 carry out the provisions of this chapter. The Attorney General
 18 shall give reasonable public notice, and afford to interested par-
 19 ties opportunity for hearing, prior to prescribing such rules and
 20 regulations.

21 **“§ 618. Effect on State law**

22 “No provision of this subchapter shall be construed as indi-
 23 cating an intent on the part of the Congress to occupy the field
 24 in which such provision operates to the exclusion of the law of
 25 any State on the same subject matter, unless there is a direct
 26 and positive conflict between such provision and the law of the
 27 State so that the two cannot be reconciled or consistently stand
 28 together.

29 **“SUBCHAPTER E—BIOLOGICAL WEAPONS**

“Sec.

“621. Prohibitions with respect to biological weapons.

“622. Requests for military assistance to enforce prohibition in certain
 emergencies.

“623. Possession by restricted persons.

“624. Variola virus.

“625. Seizure, forfeiture, and destruction.

“626. Injunctions.

“627. Definitions.

1 **“§ 621. Prohibitions with respect to biological**
2 **weapons**

3 “(a) IN GENERAL.—Whoever knowingly develops, produces,
4 stockpiles, transfers, acquires, retains, or possesses any biologi-
5 cal agent, toxin, or delivery system for use as a weapon, or
6 knowingly assists a foreign state or any organization to do so,
7 or attempts, threatens, or conspires to do the same, shall be
8 imprisoned for life or any term of years. There is
9 extraterritorial Federal jurisdiction over an offense under this
10 section committed by or against a national of the United
11 States.

12 “(b) ADDITIONAL OFFENSE.—Whoever knowingly possesses
13 any biological agent, toxin, or delivery system of a type or in
14 a quantity that, under the circumstances, is not reasonably jus-
15 tified by a prophylactic, protective, bona fide research, or other
16 peaceful purpose, shall be imprisoned not more than 10 years.
17 In this subsection, the terms ‘biological agent’ and ‘toxin’ do
18 not encompass any biological agent or toxin that is in its natu-
19 rally occurring environment, if the biological agent or toxin has
20 not been cultivated, collected, or otherwise extracted from its
21 natural source.

22 “(c) DEFINITION.—For purposes of this section, the term
23 ‘for use as a weapon’ includes the development, production,
24 transfer, acquisition, retention, or possession of any biological
25 agent, toxin, or delivery system for other than prophylactic,
26 protective, bona fide research, or other peaceful purposes.

27 **“§ 622. Requests for military assistance to enforce**
28 **prohibition in certain emergencies**

29 “The Attorney General may request the Secretary of Defense
30 to provide assistance under section 382 of title 10 in support
31 of Department of Justice activities relating to the enforcement
32 of section 621 in an emergency situation involving a biological
33 weapon of mass destruction. The authority to make such a re-
34 quest may be exercised by another official of the Department
35 of Justice in accordance with section 382(f)(2) of title 10.

“§ 623. Possession by restricted persons

“(a) IN GENERAL.—(1) No restricted person shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.

“(2) Whoever knowingly violates this section shall be imprisoned not more than 10 years, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.

“(b) TRANSFER TO UNREGISTERED PERSON.—

“(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be imprisoned for not more than 5 years.

“(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be imprisoned for not more than 5 years.

“(c) UNREGISTERED FOR POSSESSION.—

“(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of

1 the Public Health Service Act shall be or imprisoned for
2 not more than 5 years.

3 “(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOX-
4 INS.—Whoever knowingly possesses a biological agent or
5 toxin where such agent or toxin is a biological agent or
6 toxin listed pursuant to section 212(a)(1) of the Agricul-
7 tural Bioterrorism Protection Act of 2002 for which such
8 person has not obtained a registration required by regula-
9 tions under section 212(c) of such Act shall be imprisoned
10 for not more than 5 years.

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

12 “(1) The term ‘select agent’ means a biological agent or
13 toxin to which subsection (a) applies. Such term (including
14 for purposes of subsection (a)) does not include any such
15 biological agent or toxin that is in its naturally-occurring
16 environment, if the biological agent or toxin has not been
17 cultivated, collected, or otherwise extracted from its natural
18 source.

19 “(2) The term ‘restricted person’ means an individual
20 who—

21 “(A) is under indictment for a crime punishable by
22 imprisonment for a term exceeding 1 year;

23 “(B) has been convicted in any court of a crime pun-
24 ishable by imprisonment for a term exceeding 1 year;

25 “(C) is a fugitive from justice;

26 “(D) is an unlawful user of any controlled substance
27 (as defined in section 102 of the Controlled Substances
28 Act (21 U.S.C. 802));

29 “(E) is an alien illegally or unlawfully in the United
30 States;

31 “(F) has been adjudicated as a mental defective or
32 has been committed to any mental institution;

33 “(G)(i) is an alien (other than an alien lawfully ad-
34 mitted for permanent residence) who is a national of a
35 country as to which the Secretary of State, pursuant
36 to section 6(j) of the Export Administration Act of
37 1979 (50 U.S.C. App. 2405(j)), section 620A of chap-

1 ter 1 of part M of the Foreign Assistance Act of 1961
 2 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the
 3 Arms Export Control Act (22 U.S.C. 2780(d)), has
 4 made a determination (that remains in effect) that
 5 such country has repeatedly provided support for acts
 6 of international terrorism, or (ii) acts for or on behalf
 7 of, or operates subject to the direction or control of, a
 8 government or official of a country described in this
 9 subparagraph;

10 “(H) has been discharged from the Armed Services
 11 of the United States under dishonorable conditions; or

12 “(I) is a member of, acts for or on behalf of, or oper-
 13 ates subject to the direction or control of, a terrorist
 14 organization as defined in section 212(a)(3)(B)(vi) of
 15 the Immigration and Nationality Act (8 U.S.C.
 16 1182(a)(3)(B)(vi)).

17 “(3) The term ‘alien’ has the same meaning as in section
 18 101(a)(3) of the Immigration and Nationality Act (8
 19 U.S.C. 1101(a)(3)).

20 “(4) The term ‘lawfully admitted for permanent resi-
 21 dence’ has the same meaning as in section 101(a)(20) of
 22 the Immigration and Nationality Act (8 U.S.C.
 23 1101(a)(20)).

24 **“§ 624. Variola virus**

25 “(a) UNLAWFUL CONDUCT.—

26 “(1) IN GENERAL.—Except as provided in paragraph
 27 (2), it shall be unlawful for any person to knowingly
 28 produce, engineer, synthesize, acquire, transfer directly or
 29 indirectly, receive, possess, import, export, or use, or pos-
 30 sess and threaten to use, variola virus.

31 “(2) EXCEPTION.—This subsection does not apply to
 32 conduct by, or under the authority of, the Secretary of
 33 Health and Human Services.

34 “(b) JURISDICTION.—Conduct prohibited by subsection (a) is
 35 within the jurisdiction of the United States if—

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

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

3 “(3) the offense is committed against a national of the
4 United States while the national is outside the United
5 States;

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

10 “(5) an offender aids or abets any person over whom ju-
11 risdiction exists under this subsection in committing an of-
12 fense under this section or conspires with any person over
13 whom jurisdiction exists under this subsection to commit
14 an offense under this section.

15 “(c) CRIMINAL PENALTIES.—

16 “(1) IN GENERAL.—Any person who violates, or at-
17 tempts or conspires to violate, subsection (a) shall be sen-
18 tenced to a term of imprisonment not less than 25 years
19 or to imprisonment for life.

20 “(2) OTHER CIRCUMSTANCES.—Any person who, in the
21 course of a violation of subsection (a), uses, attempts or
22 conspires to use, or possesses and threatens to use, any
23 item or items described in subsection (a), shall be impris-
24 oned for not less than 30 years or imprisoned for life.

25 “(3) SPECIAL CIRCUMSTANCES.—If the death of another
26 results from a person’s violation of subsection (a), the per-
27 son shall be punished by imprisonment for life.

28 “(d) DEFINITION.—As used in this section, the term ‘variola
29 virus’ means a virus that can cause human smallpox or any de-
30 rivative of the variola major virus that contains more than 85
31 percent of the gene sequence of the variola major virus or the
32 variola minor virus.

33 **“§ 625. Seizure, forfeiture, and destruction**

34 “(a) IN GENERAL.—(1) Except as provided in paragraph
35 (2), the Attorney General may request the issuance, in the
36 same manner as provided for a search warrant, of a warrant

1 authorizing the seizure of any biological agent, toxin, or deliv-
2 ery system that—

3 “(A) pertains to conduct prohibited under section 621; or

4 “(B) is of a type or in a quantity that under the cir-
5 cumstances has no apparent justification for prophylactic,
6 protective, or other peaceful purposes.

7 “(2) In exigent circumstances, seizure and destruction of any
8 biological agent, toxin, or delivery system described in subpara-
9 graphs (A) and (B) of paragraph (1) may be made upon prob-
10 able cause without the necessity for a warrant.

11 “(b) PROCEDURE.—Property seized pursuant to subsection
12 (a) shall be forfeited to the United States after notice to poten-
13 tial claimants and an opportunity for a hearing. At such hear-
14 ing, the Government shall bear the burden of persuasion by a
15 preponderance of the evidence. Except as inconsistent herewith,
16 the same procedures and provisions of law relating to a for-
17 feiture under the customs laws shall extend to a seizure or for-
18 feiture under this section. The Attorney General may provide
19 for the destruction or other appropriate disposition of any bio-
20 logical agent, toxin, or delivery system seized and forfeited pur-
21 suant to this section.

22 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense
23 against a forfeiture under subsection (a)(1)(B) of this section
24 that—

25 “(1) such biological agent, toxin, or delivery system is for
26 a prophylactic, protective, or other peaceful purpose; and

27 “(2) such biological agent, toxin, or delivery system, is
28 of a type and quantity reasonable for that purpose.

29 **“§ 626. Injunctions**

30 “(a) IN GENERAL.—The United States may obtain in a civil
31 action an injunction against—

32 “(1) the conduct prohibited under section 621 of this
33 title;

34 “(2) the preparation, solicitation, attempt, threat, or
35 conspiracy to engage in conduct prohibited under section
36 621; or

1 “(3) the development, production, stockpiling, transfer-
2 ring, acquisition, retention, or possession, or the attempted
3 development, production, stockpiling, transferring, acquisi-
4 tion, retention, or possession of any biological agent, toxin,
5 or delivery system of a type or in a quantity that under the
6 circumstances has no apparent justification for prophylactic,
7 protective, or other peaceful purposes.

8 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense
9 against an injunction under subsection (a)(3) of this section
10 that—

11 “(1) the conduct sought to be enjoined is for a prophylactic,
12 protective, or other peaceful purpose; and

13 “(2) such biological agent, toxin, or delivery system is of
14 a type and quantity reasonable for that purpose.

15 **“§ 627. Definitions**

16 “As used in this chapter—

17 “(1) the term ‘biological agent’ means any microorganism
18 (including bacteria, viruses, fungi, rickettsiae or protozoa), or
19 infectious substance, or any naturally occurring, bioengineered
20 or synthesized component of any such microorganism or infectious
21 substance, capable of causing—

22 “(A) death, disease, or other biological malfunction
23 in a human, an animal, a plant, or another living organism;
24 nism;

25 “(B) deterioration of food, water, equipment, supplies,
26 or material of any kind; or

27 “(C) deleterious alteration of the environment;

28 “(2) the term ‘toxin’ means the toxic material or product
29 of plants, animals, microorganisms (including bacteria, viruses,
30 fungi, rickettsiae or protozoa), or infectious substances, or a
31 recombinant or synthesized molecule, whatever their origin and
32 method of production, and includes—

33 “(A) any poisonous substance or biological product
34 that may be engineered as a result of biotechnology produced
35 by a living organism; or

36 “(B) any poisonous isomer or biological product,
37 homolog, or derivative of such a substance;

- 1 “(3) the term ‘delivery system’ means—
 2 “(A) any apparatus, equipment, device, or means of
 3 delivery specifically designed to deliver or disseminate
 4 a biological agent, toxin, or vector; or
 5 “(B) any vector; and
 6 “(4) the term ‘vector’ means a living organism, or mol-
 7 ecule, including a recombinant or synthesized molecule, ca-
 8 pable of carrying a biological agent or toxin to a host.

9 “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.

10 **“§ 631. Prohibited activities**

11 “(a) UNLAWFUL CONDUCT.—Except as provided in sub-
 12 section (b), it shall be unlawful for any person knowingly—

13 “(1) to develop, produce, otherwise acquire, transfer di-
 14 rectly or indirectly, receive, stockpile, retain, own, possess,
 15 or use, or threaten to use, any chemical weapon; or

16 “(2) to assist or induce, in any way, any person to vio-
 17 late paragraph (1), or to attempt or conspire to violate
 18 paragraph (1).

19 “(b) EXEMPTED AGENCIES AND PERSONS.—

20 “(1) IN GENERAL.—Subsection (a) does not apply to the
 21 retention, ownership, possession, transfer, or receipt of a
 22 chemical weapon by a department, agency, or other entity
 23 of the United States, or by a person described in paragraph
 24 (2), pending destruction of the weapon.

25 “(2) EXEMPTED PERSONS.—A person referred to in
 26 paragraph (1) is—

27 “(A) any person, including a member of the Armed
 28 Forces of the United States, who is authorized by law
 29 or by an appropriate officer of the United States to re-
 30 tain, own, possess, transfer, or receive the chemical
 31 weapon; or

1 “(B) in an emergency situation, any otherwise non-
2 culpable person if the person is attempting to destroy
3 or seize the weapon.

4 “(c) JURISDICTION.—Conduct prohibited by subsection (a) is
5 within the jurisdiction of the United States if the prohibited
6 conduct—

7 “(1) takes place in the United States;

8 “(2) takes place outside of the United States and is com-
9 mitted by a national of the United States;

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

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

16 **“§ 632. Penalties**

17 “(a) CRIMINAL PENALTIES.—

18 “(1) IN GENERAL.—Any person who violates section 631
19 of this title shall be imprisoned for any term of years.

20 “(2) DEATH PENALTY.—Any person who violates section
21 631 of this title and by whose action the death of another
22 person is the result shall be punished by death or impris-
23 oned for life.

24 “(b) CIVIL PENALTIES.—

25 “(1) IN GENERAL.—The Attorney General may bring a
26 civil action in the appropriate United States district court
27 against any person who violates section 631 of this title
28 and, upon proof of such violation by a preponderance of the
29 evidence, such person shall be subject to pay a civil penalty
30 in an amount not to exceed \$100,000 for each such viola-
31 tion.

32 “(2) RELATION TO OTHER PROCEEDINGS.—The imposi-
33 tion of a civil penalty under this subsection does not pre-
34 clude any other criminal or civil statutory, common law, or
35 administrative remedy, which is available by law to the
36 United States or any other person.

1 “(c) REIMBURSEMENT OF COSTS.—The court shall order
2 any person convicted of an offense under subsection (a) to re-
3 imburse the United States for any expenses incurred by the
4 United States incident to the seizure, storage, handling, trans-
5 portation, and destruction or other disposition of any property
6 that was seized in connection with an investigation of the com-
7 mission of the offense by that person. A person ordered to re-
8 imburse the United States for expenses under this subsection
9 shall be jointly and severally liable for such expenses with each
10 other person, if any, who is ordered under this subsection to
11 reimburse the United States for the same expenses.

12 **“§ 633. Individual self-defense devices**

13 “This subchapter does not prohibit any individual self-de-
14 fense device, including one using a pepper spray or chemical
15 mace.

16 **“§ 634. Injunctions**

17 “The United States may obtain in a civil action an injunc-
18 tion against—

19 “(1) the conduct prohibited under section 631 or 674; or

20 “(2) the preparation or solicitation to engage in conduct
21 prohibited under section 631 or 675.

22 **“§ 635. Requests for military assistance to enforce
23 prohibition in certain emergencies**

24 “The Attorney General may request the Secretary of Defense
25 to provide assistance under section 382 of title 10 in support
26 of Department of Justice activities relating to the enforcement
27 of section 631 in an emergency situation involving a chemical
28 weapon. The authority to make such a request may be exer-
29 cised by another official of the Department of Justice in ac-
30 cordance with section 382(f)(2) of title 10.

31 **“§ 636. Definitions**

32 “In this chapter the following apply:

33 “(1) CHEMICAL WEAPON.—The term ‘chemical weapon’
34 means the following, together or separately:

35 “(A) A toxic chemical and its precursors, except
36 where intended for a purpose not prohibited under this

1 chapter as long as the type and quantity is consistent
2 with such a purpose.

3 “(B) A munition or device, specifically designed to
4 cause death or other harm through toxic properties of
5 those toxic chemicals specified in subparagraph (A),
6 which would be released as a result of the employment
7 of such munition or device.

8 “(C) Any equipment specifically designed for use di-
9 rectly in connection with the employment of munitions
10 or devices specified in subparagraph (B).

11 “(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—
12 The terms ‘Chemical Weapons Convention’ and ‘Conven-
13 tion’ mean the Convention on the Prohibition of the Devel-
14 opment, Production, Stockpiling and Use of Chemical
15 Weapons and on Their Destruction, opened for signature
16 on January 13, 1993.

17 “(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT
18 CHEMICAL SYSTEM.—The term ‘key component of a
19 binary or multicomponent chemical system’ means the pre-
20 cursor which plays the most important role in determining
21 the toxic properties of the final product and reacts rapidly
22 with other chemicals in the binary or multicomponent sys-
23 tem.

24 “(4) PRECURSOR.—

25 “(A) IN GENERAL.—The term ‘precursor’ means any
26 chemical reactant which takes part at any stage in the
27 production by whatever method of a toxic chemical.
28 The term includes any key component of a binary or
29 multicomponent chemical system.

30 “(B) LIST OF PRECURSORS.—Precursors which have
31 been identified for the application of verification meas-
32 ures under Article VI of the Convention are listed in
33 schedules contained in the Annex on Chemicals of the
34 Chemical Weapons Convention.

35 “(5) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—
36 The term ‘purposes not prohibited by this chapter’ means
37 the following:

1 “(A) PEACEFUL PURPOSES.—Any peaceful purpose
2 related to an industrial, agricultural, research, medical,
3 or pharmaceutical activity or other activity.

4 “(B) PROTECTIVE PURPOSES.—Any purpose directly
5 related to protection against toxic chemicals and to
6 protection against chemical weapons.

7 “(C) UNRELATED MILITARY PURPOSES.—Any mili-
8 tary purpose of the United States that is not connected
9 with the use of a chemical weapon or that is not de-
10 pendent on the use of the toxic or poisonous properties
11 of the chemical weapon to cause death or other harm.

12 “(D) LAW ENFORCEMENT PURPOSES.—Any law en-
13 forcement purpose, including any domestic riot control
14 purpose and including imposition of capital punish-
15 ment.

16 “(6) TOXIC CHEMICAL.—

17 “(A) IN GENERAL.—The term ‘toxic chemical’ means
18 any chemical which through its chemical action on life
19 processes can cause death, temporary incapacitation or
20 permanent harm to humans or animals. The term in-
21 cludes all such chemicals, regardless of their origin or
22 of their method of production, and regardless of wheth-
23 er they are produced in facilities, in munitions or else-
24 where.

25 “(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals
26 which have been identified for the application of
27 verification measures under Article VI of the Conven-
28 tion are listed in schedules contained in the Annex on
29 Chemicals of the Chemical Weapons Convention.

30 **“CHAPTER 23—THEFT AND RELATED CRIMES**

| “Subchapter | Sec. |
|---|-------------|
| “A. Embezzlement and theft | 641 |
| “B. Stolen property | 671 |
| “C. Counterfeiting and forgery | 691 |

31 **“SUBCHAPTER A—EMBEZZLEMENT AND THEFT**

“Sec.

“641. Public money, property or records.

“642. Accounting generally for public money.

“643. Officer or employee of United States converting property of another.

- “644. Theft, embezzlement, or misapplication by bank officer or employee.
- “645. Lending, credit, and insurance institutions.
- “646. Property mortgaged or pledged to farm credit agencies.
- “647. Interstate or foreign shipments by carrier; State prosecutions.
- “648. Carrier’s funds derived from commerce; State prosecutions.
- “649. Within special maritime and territorial jurisdiction.
- “650. Receiving stolen property within special maritime and territorial jurisdiction.
- “651. Theft or embezzlement from employee benefit plan.
- “652. Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations.
- “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 converts to
4 his use or the use of another, or without authority, sells,
5 conveys or disposes of any record, voucher, money, or thing
6 of value of the United States or of any department or agen-
7 cy thereof, or any property made or being made under con-
8 tract for the United States or any department or agency
9 thereof; or

10 “(2) receives, conceals, or retains the same with intent
11 to convert it to his use or gain, knowing it to have been
12 embezzled, stolen, purloined or converted;

13 shall be imprisoned not more than ten years; but if the value
14 of such property in the aggregate, combining amounts from all
15 the counts for which the defendant is convicted in a single case,
16 does not exceed the sum of \$1,000, he shall be imprisoned not
17 more than one year.

18 “(b) DEFINITION.—As used in this section the term ‘value’
19 means face, par, or market value, or cost price, either wholesale
20 or retail, whichever is greater.

21 **“§ 642. Accounting generally for public money**

22 “Whoever, being an officer, employee or agent of the United
23 States or of any department or agency thereof, having received
24 public money which he is not authorized to retain as salary,
25 pay, or emolument, fails to render his accounts for the same
26 as provided by law is guilty of embezzlement, and shall be or

1 imprisoned not more than ten years; but if the amount embez-
2 zled does not exceed \$1,000, he shall be imprisoned not more
3 than one year.

4 **“§ 643. Officer or employee of United States con-**
5 **verting property of another**

6 “Whoever, being an officer or employee of the United States
7 or of any department or agency thereof, embezzles or wrong-
8 fully converts to his own use the money or property of another
9 which comes into his possession or under his control in the exe-
10 cution of such office or employment, or under color or claim
11 of authority as such officer or employee, shall be imprisoned
12 not more than ten years; but if the sum embezzled is \$1,000
13 or less, he shall be imprisoned not more than one year.

14 **“§ 644. Theft, embezzlement, or misapplication by**
15 **bank officer or employee**

16 “(a) OFFENSE.—Whoever, being an officer, director, agent
17 or employee of, or connected in any capacity with any Federal
18 Reserve bank, member bank, depository institution holding
19 company, national bank, insured bank, branch or agency of a
20 foreign bank, or organization operating under section 25 or
21 section 25(a) of the Federal Reserve Act, or a receiver of a na-
22 tional bank, insured bank, branch, agency, or organization or
23 any agent or employee of the receiver, or a Federal Reserve
24 Agent, or an agent or employee of a Federal Reserve Agent or
25 of the Board of Governors of the Federal Reserve System, em-
26 bezzles, abstracts, purloins or knowingly misapplies any of the
27 moneys, funds or credits of such bank, branch, agency, or orga-
28 nization or holding company or any moneys, funds, assets or
29 securities intrusted to the custody or care of such bank,
30 branch, agency, or organization, or holding company or to the
31 custody or care of any such agent, officer, director, employee
32 or receiver, shall be imprisoned not more than 30 years; but
33 if the amount embezzled, abstracted, purloined or misapplied
34 does not exceed \$1,000, he shall be imprisoned not more than
35 one year.

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

1 “(1) the term ‘member bank’ means any national bank,
2 state bank, or bank and trust company which has become
3 a member of one of the Federal Reserve banks;

4 “(2) the term ‘insured bank’ means any bank, banking
5 association, trust company, savings bank, or other banking
6 institution, the deposits of which are insured by the Fed-
7 eral Deposit Insurance Corporation;

8 “(3) the term ‘branch or agency of a foreign bank’
9 means a branch or agency described in section 20(9) of this
10 title; and

11 “(4) the term ‘depository institution holding company’
12 has the meaning given such term in section 3 of the Fed-
13 eral Deposit Insurance Act.

14 **“§ 645. Lending, credit, and insurance institutions**

15 “Whoever, being an officer, agent or employee of or con-
16 nected in any capacity with the Federal Deposit Insurance Cor-
17 poration, National Credit Union Administration, Office of
18 Thrift Supervision, the Resolution Trust Corporation, any Fed-
19 eral home loan bank, the Federal Housing Finance Board,
20 Farm Credit Administration, Department of Housing and
21 Urban Development, Federal Crop Insurance Corporation, the
22 Secretary of Agriculture acting through the Farmers Home Ad-
23 ministration or successor agency, the Rural Development Ad-
24 ministration or successor agency, or the Farm Credit System
25 Insurance Corporation, a Farm Credit Bank, a bank for co-
26 operatives or any lending, mortgage, insurance, credit or sav-
27 ings and loan corporation or association authorized or acting
28 under the laws of the United States or any institution, other
29 than an insured bank (as defined in section 656), the accounts
30 of which are insured by the Federal Deposit Insurance Cor-
31 poration, or by the National Credit Union Administration
32 Board or any small business investment company, or any com-
33 munity development financial institution receiving financial as-
34 sistance under the Riegle Community Development and Regu-
35 latory Improvement Act of 1994, and whoever, being a receiver
36 of any such institution, or agent or employee of the receiver,
37 embezzles, abstracts, purloins or knowingly misapplies any

1 moneys, funds, credits, securities or other things of value be-
 2 longing to such institution, or pledged or otherwise intrusted to
 3 its care, shall be imprisoned not more than 30 years; but if the
 4 amount or value embezzled, abstracted, purloined or misapplied
 5 does not exceed \$1,000, he shall be imprisoned not more than
 6 one year.

7 **“§ 646. Property mortgaged or pledged to farm**
 8 **credit agencies**

9 “Whoever, with intent to defraud, knowingly conceals, re-
 10 moves, disposes of, or converts to his own use or to that of an-
 11 other, any property mortgaged or pledged to, or held by, the
 12 Farm Credit Administration, any Federal intermediate credit
 13 bank, or the Federal Crop Insurance Corporation, the Sec-
 14 retary of Agriculture acting through the Farmers Home Ad-
 15 ministration or successor agency, the Rural Development Ad-
 16 ministration or successor agency, any regional agricultural
 17 credit corporation, or any bank for cooperatives, shall be im-
 18 prisoned not more than five years; but if the value of such
 19 property does not exceed \$1,000, he shall be imprisoned not
 20 more than one year.

21 **“§ 647. Interstate or foreign shipments by carrier;**
 22 **State prosecutions**

23 “(a) OFFENSE.—Whoever—

24 “(1) embezzles, steals, or unlawfully takes, carries away,
 25 or conceals, or by fraud or deception obtains from any
 26 pipeline system, railroad car, wagon, motortruck, or other
 27 vehicle, or from any tank or storage facility, station, station
 28 house, platform or depot or from any steamboat, vessel, or
 29 wharf, or from any aircraft, air terminal, airport, aircraft
 30 terminal or air navigation facility with intent to convert to
 31 his own use any goods or chattels moving as or which are
 32 a part of or which constitute an interstate or foreign ship-
 33 ment of freight, express, or other property;

34 “(2) buys or receives or has in his possession any such
 35 goods or chattels, knowing the same to have been embez-
 36 zled or stolen;

1 “(3) embezzles, steals, or unlawfully takes, carries away,
2 or by fraud or deception obtains with intent to convert to
3 his own use any baggage which shall have come into the
4 possession of any common carrier for transportation in
5 interstate or foreign commerce or breaks into, steals, takes,
6 carries away, or conceals any of the contents of such bag-
7 gage, or buys, receives, or has in his possession any such
8 baggage or any article therefrom of whatever nature, know-
9 ing the same to have been embezzled or stolen; or

10 “(4) embezzles, steals, or unlawfully takes by any fraud-
11 ulent device, scheme, or game, from any railroad car, bus,
12 vehicle, steamboat, vessel, or aircraft operated by any com-
13 mon carrier moving in interstate or foreign commerce or
14 from any passenger thereon any money, baggage, goods, or
15 chattels, or whoever buys, receives, or has in his possession
16 any such money, baggage, goods, or chattels, knowing the
17 same to have been embezzled or stolen;

18 shall be imprisoned not more than ten years, but if the amount
19 or value of such money, baggage, goods or chattels does not ex-
20 ceed \$1,000, shall be imprisoned not more than one year.

21 “(b) BAR TO PROSECUTION.—A judgment of conviction or
22 acquittal on the merits under the laws of any State shall be
23 a bar to any prosecution under this section for the same act
24 or acts. Nothing contained in this section shall be construed as
25 indicating an intent on the part of Congress to occupy the field
26 in which provisions of this section operate to the exclusion of
27 State laws on the same subject matter, nor shall any provision
28 of this section be construed as invalidating any provision of
29 State law unless such provision is inconsistent with any of the
30 purposes of this section or any provision thereof.

31 **“§ 648. Carrier’s funds derived from commerce;**
32 **State prosecutions**

33 “(a) OFFENSE.—Whoever, being a president, director, offi-
34 cer, or manager of any firm, association, or corporation en-
35 gaged in commerce as a common carrier, or whoever, being an
36 employee of such common carrier riding in or upon any rail-
37 road car, motortruck, steamboat, vessel, aircraft or other vehi-

1 cle of such carrier moving in interstate commerce, embezzles,
2 steals, abstracts, or knowingly misapplies, or knowingly permits
3 to be misapplied, any of the moneys, funds, credits, securities,
4 property, or assets of such firm, association, or corporation
5 arising or accruing from, or used in, such commerce, in whole
6 or in part, or knowingly converts the same to his own use or
7 to the use of another, shall be imprisoned not more than ten
8 years.

9 “(b) VENUE.—The offense shall be deemed to have been
10 committed not only in the district where the violation first oc-
11 curred but also in any district in which the defendant may have
12 taken or had possession of such moneys, funds, credits, securi-
13 ties, property or assets.

14 “(c) BAR TO PROSECUTION.—A judgment of conviction or
15 acquittal on the merits under the laws of any State shall be
16 a bar to any prosecution hereunder for the same act or acts.

17 **“§ 649. Within special maritime and territorial ju-
18 risdiction**

19 “Whoever, within the special maritime and territorial juris-
20 diction of the United States, takes and carries away, with in-
21 tent to steal or purloin, any personal property of another shall,
22 if the property taken is of a value exceeding \$1,000, or is taken
23 from the person of another, be imprisoned not more than five
24 years, and in all other cases, imprisoned not more than one
25 year.

26 **“§ 650. Receiving stolen property within special
27 maritime and territorial jurisdiction**

28 “Whoever, within the special maritime and territorial juris-
29 diction of the United States, buys, receives, or conceals any
30 money, goods, bank notes, or other thing which may be the
31 subject of larceny, which has been feloniously taken, stolen, or
32 embezzled, from any other person, knowing the same to have
33 been so taken, stolen, or embezzled, shall be imprisoned not
34 more than three years, but if the amount or value of thing so
35 taken, stolen or embezzled does not exceed \$1,000, the offender
36 shall be imprisoned not more than one year.

1 **“§ 651. Theft or embezzlement from employee ben-**
2 **efit plan**

3 “(a) OFFENSE.—Whoever embezzles, steals, or unlawfully
4 and knowingly abstracts or converts any property of any em-
5 ployee welfare benefit plan or employee pension benefit plan, or
6 of any fund connected therewith, shall be imprisoned not more
7 than five years.

8 “(b) DEFINITION.—As used in this section, the term ‘any
9 employee welfare benefit plan or employee pension benefit plan’
10 means any employee benefit plan subject to any provision of
11 title I of the Employee Retirement Income Security Act of
12 1974.

13 **“§ 652. Theft or embezzlement from employment**
14 **and training funds; improper inducement;**
15 **obstruction of investigations**

16 “(a) THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND
17 TRAINING FUNDS.—Whoever, being an officer, director, agent,
18 or employee of, or connected in any capacity with any agency
19 or organization receiving financial assistance or any funds
20 under the Job Training Partnership Act or title I of the Work-
21 force Investment Act of 1998 knowingly enrolls an ineligible
22 participant, embezzles, knowingly misapplies, steals, or obtains
23 by fraud any property that is the subject of a financial assist-
24 ance agreement or contract pursuant to such Act shall be im-
25 prisoned for not more than 2 years, but if the amount so em-
26 bezzled, misapplied, stolen, or obtained by fraud does not ex-
27 ceed \$1,000, the offender shall be imprisoned not more than
28 1 year.

29 “(b) IMPROPER INDUCEMENT.—Whoever, by threat or pro-
30 curing dismissal of any person from employment or of refusal
31 to employ or refusal to renew a contract of employment in con-
32 nection with a financial assistance agreement or contract under
33 the Job Training Partnership Act or title I of the Workforce
34 Investment Act of 1998 induces any person to give up any
35 money or thing of any value to any person (including such or-
36 ganization or agency receiving funds) shall be imprisoned not
37 more than 1 year.

1 **“§ 653. Theft or bribery concerning programs re-**
2 **ceiving Federal funds**

3 “(a) OFFENSE.—Whoever, as made applicable by subsection
4 (b)—

5 “(1) being an agent of an organization, or of a State,
6 local, or Indian tribal government, or any agency thereof—

7 “(A) embezzles, steals, obtains by fraud, or otherwise
8 without authority knowingly converts or intentionally
9 misapplies, property that—

10 “(i) is valued at \$5,000 or more, and

11 “(ii) is owned by, or is under the care, custody,
12 or control of such organization, government, or
13 agency; or

14 “(B) corruptly solicits or demands for the benefit of
15 any person, or accepts or agrees to accept, anything of
16 value from any person, intending to be influenced or re-
17 warded in connection with any business, transaction, or
18 series of transactions of such organization, government,
19 or agency involving any thing of value of \$5,000 or
20 more; or

21 “(2) corruptly gives, offers, or agrees to give anything of
22 value to any person, with intent to influence or reward an
23 agent of an organization or of a State, local or Indian trib-
24 al government, or any agency thereof, in connection with
25 any business, transaction, or series of transactions of such
26 organization, government, or agency involving anything of
27 value of \$5,000 or more;

28 shall be imprisoned not more than 10 years.

29 “(b) APPLICABILITY.—Subsection (a) applies if the organiza-
30 tion, government, or agency receives, in any one year period,
31 benefits in excess of \$10,000 under a Federal program involv-
32 ing a grant, contract, subsidy, loan, guarantee, insurance, or
33 other form of Federal assistance.

34 “(c) EXCLUSION.—This section does not apply to bona fide
35 salary, wages, fees, or other compensation paid, or expenses
36 paid or reimbursed, in the usual course of business.

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

1 “(1) the term ‘agent’ means a person authorized to act
 2 on behalf of another person or a government and, in the
 3 case of an organization or government, includes a servant
 4 or employee, and a partner, director, officer, manager, and
 5 representative;

6 “(2) the term ‘government agency’ means a subdivision
 7 of the executive, legislative, judicial, or other branch of gov-
 8 ernment, including a department, independent establish-
 9 ment, commission, administration, authority, board, and
 10 bureau, and a corporation or other legal entity established,
 11 and subject to control, by a government or governments for
 12 the execution of a governmental or intergovernmental pro-
 13 gram;

14 “(3) the term ‘local’ means of or pertaining to a political
 15 subdivision within a State; and

16 “(4) the term ‘in any one-year period’ means a contin-
 17 uous period that commences no earlier than twelve months
 18 before the commission of the offense or that ends no later
 19 than twelve months after the commission of the offense.
 20 Such period may include time both before and after the
 21 commission of the offense.

22 **“§ 654. Theft of major artwork**

23 “(a) OFFENSES.—A person who—

24 “(1) steals or obtains by fraud from the care, custody,
 25 or control of a museum any object of cultural heritage; or

26 “(2) knowing that an object of cultural heritage has been
 27 stolen or obtained by fraud, if in fact the object was stolen
 28 or obtained from the care, custody, or control of a museum
 29 (whether or not that fact is known to the person), receives,
 30 conceals, exhibits, or disposes of the object,

31 shall be imprisoned not more than 10 years.

32 “(b) DEFINITIONS.—In this section—

33 “(1) the term ‘museum’ means an organized and perman-
 34 ent institution, the activities of which affect interstate or
 35 foreign commerce, that—

36 “(A) is situated in the United States;

1 “(B) is established for an essentially educational or
2 aesthetic purpose;

3 “(C) has a professional staff; and

4 “(D) owns, utilizes, and cares for tangible objects
5 that are exhibited to the public on a regular schedule;
6 and

7 “(2) the term ‘object of cultural heritage’ means an ob-
8 ject that is—

9 “(A) over 100 years old and worth in excess of
10 \$5,000; or

11 “(B) worth at least \$100,000.

12 **“§ 655. Theft or embezzlement in connection with**
13 **health care**

14 “Whoever knowingly embezzles, steals, or otherwise without
15 authority converts or intentionally misapplies any of the mon-
16 eys, funds, securities, premiums, credits, property, or other as-
17 sets of a health care benefit program, shall be imprisoned not
18 more than 10 years, but if the value of such property does not
19 exceed the sum of \$100 the offender shall be imprisoned not
20 more than one year.

21 **“§ 656. Embezzlement of labor organization assets.**

22 “(a) OFFENSE.—Whoever, being an officer or employee of a
23 labor organization, embezzles, steals, or unlawfully and know-
24 ingly abstracts or converts any of the property of the organiza-
25 tion shall be imprisoned for not more than five years.

26 “(b) DEFINITION.—As used in this section the term ‘labor
27 organization’ has the meaning given that term in the National
28 Labor Relations Act.

29 “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 docu-
mentation 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 now
4 known or hereafter invented, used, or designed for naviga-
5 tion of or for flight in the air.

6 “(2) The term ‘cattle’ means one or more bulls, steers,
7 oxen, cows, heifers, or calves, or the carcass or carcasses
8 thereof.

9 “(3) The term ‘livestock’ means any domestic animals
10 raised for home use, consumption, or profit, such as horses,
11 pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the
12 carcasses thereof.

13 “(4) The term ‘money’ means the legal tender of the
14 United States or of any foreign country, or any counterfeit
15 thereof.

16 “(5) The term ‘motor vehicle’ means an automobile,
17 automobile truck, automobile wagon, motorcycle, or any
18 other self-propelled vehicle designed for running on land
19 but not on rails.

20 “(6) The term ‘securities’ means any note, stock certifi-
21 cate, bond, debenture, check, draft, warrant, traveler’s
22 check, letter of credit, warehouse receipt, negotiable bill of
23 lading, evidence of indebtedness, certificate of interest or
24 participation in any profit-sharing agreement, collateral-
25 trust certificate, preorganization certificate or subscription,
26 transferable share, investment contract, voting-trust certifi-
27 cate; valid or blank motor vehicle title; certificate of inter-
28 est in property, tangible or intangible; instrument or docu-
29 ment or writing evidencing ownership of goods, wares, and
30 merchandise, or transferring or assigning any right, title,
31 or interest in or to goods, wares, and merchandise; or, in

1 general, any instrument commonly known as a ‘security’, or
 2 any certificate of interest or participation in, temporary or
 3 interim certificate for, receipt for, warrant, or right to sub-
 4 scribe to or purchase any of the foregoing, or any forged,
 5 counterfeited, or spurious representation of any of the fore-
 6 going.

7 “(7) The term ‘tax stamp’ means any tax stamp, tax
 8 token, tax meter imprint, or any other form of evidence of
 9 an obligation running to a State, or evidence of the dis-
 10 charge thereof.

11 “(8) The term ‘value’ means the face, par, or market
 12 value, whichever is the greatest, and the aggregate value of
 13 all goods, wares, and merchandise, securities, and money
 14 referred to in a single indictment shall constitute the value
 15 thereof.

16 “(9) The term ‘vessel’ means any watercraft or other
 17 contrivance used or designed for transportation or naviga-
 18 tion on, under, or immediately above, water.

19 **“§ 671. Transportation of stolen vehicles**

20 “Whoever transports in interstate or foreign commerce a
 21 motor vehicle, vessel, or aircraft, knowing the same to have
 22 been stolen, shall be imprisoned not more than 10 years.

23 **“§ 672. Sale or receipt of stolen vehicles**

24 “Whoever receives, possesses, conceals, stores, barter, sells,
 25 or disposes of any motor vehicle, vessel, or aircraft, which has
 26 crossed a State or United States boundary after being stolen,
 27 knowing the same to have been stolen, shall be imprisoned not
 28 more than 10 years.

29 **“§ 673. Transportation of stolen goods, securities,
 30 moneys, fraudulent State tax stamps, or
 31 articles used in counterfeiting**

32 “Whoever—

33 “(1) transports, transmits, or transfers in interstate or
 34 foreign commerce any goods, wares, merchandise, securities
 35 or money, of the value of \$5,000 or more, knowing the
 36 same to have been stolen, converted or taken by fraud;

1 “(2) having devised or intending to devise any scheme or
2 artifice to defraud, or for obtaining money or property by
3 means of false or fraudulent pretenses, representations, or
4 promises, transports or causes to be transported, or in-
5 duces any person or persons to travel in, or to be trans-
6 ported in interstate or foreign commerce in the execution
7 or concealment of a scheme or artifice to defraud that per-
8 son or those persons of money or property having a value
9 of \$5,000 or more;

10 “(3) with unlawful intent, transports in interstate or for-
11 eign commerce any falsely made, forged, altered, or coun-
12 terfeited securities or tax stamps, knowing the same to
13 have been falsely made, forged, altered, or counterfeited;

14 “(4) with unlawful intent, transports in interstate or for-
15 eign commerce any traveler’s check bearing a forged
16 countersignature; or

17 “(5) with unlawful intent, transports in interstate or for-
18 eign commerce, any tool, implement, or thing used or fitted
19 to be used in falsely making, forging, altering, or counter-
20 feiting any security or tax stamps, or any part thereof;

21 shall be imprisoned not more than ten years.

22 **“§ 674. Sale or receipt of stolen goods, securities,**
23 **moneys, or fraudulent State tax stamps**

24 “Whoever—

25 “(1) receives, possesses, conceals, stores, barter, sells, or
26 disposes of any goods, wares, or merchandise, securities, or
27 money of the value of \$5,000 or more, or pledges or ac-
28 cepts as security for a loan any goods, wares, or merchan-
29 dise, or securities, of the value of \$500 or more, which have
30 crossed a State or United States boundary after being sto-
31 len, unlawfully converted, or taken, knowing the same to
32 have been stolen, unlawfully converted, or taken;

33 “(2) receives, possesses, conceals, stores, barter, sells, or
34 disposes of any falsely made, forged, altered, or counter-
35 feited securities or tax stamps, or pledges or accepts as se-
36 curity for a loan any falsely made, forged, altered, or coun-
37 terfeited securities or tax stamps, moving as, or which are

1 a part of, or which constitute interstate or foreign com-
 2 merce, knowing the same to have been so falsely made,
 3 forged, altered, or counterfeited; or

4 “(3) receives in interstate or foreign commerce, or con-
 5 ceals, stores, barters, sells, or disposes of, any tool, imple-
 6 ment, or thing used or intended to be used in falsely mak-
 7 ing, forging, altering, or counterfeiting any security or tax
 8 stamp, or any part thereof, moving as, or which is a part
 9 of, or which constitutes interstate or foreign commerce,
 10 knowing that the same is fitted to be used, or has been
 11 used, in falsely making, forging, altering, or counterfeiting
 12 any security or tax stamp, or any part thereof;

13 shall be imprisoned not more than ten years.

14 **“§ 675. Trafficking in counterfeit labels, illicit la-
 15 bels, or counterfeit documentation or
 16 packaging**

17 “(a) OFFENSE.—Whoever, as made applicable by subsection
 18 (c), knowingly traffics in—

19 “(1) a counterfeit label or illicit label affixed to, enclos-
 20 ing, or accompanying, or designed to be affixed to, enclose,
 21 or accompany—

22 “(A) a phonorecord;

23 “(B) a copy of a computer program;

24 “(C) a copy of a motion picture or other audiovisual
 25 work;

26 “(D) a copy of a literary work;

27 “(E) a copy of a pictorial, graphic, or sculptural
 28 work;

29 “(F) a work of visual art; or

30 “(G) documentation or packaging; or

31 “(2) counterfeit documentation or packaging, shall be
 32 fined under this title or imprisoned for not more than 5
 33 years.

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

35 “(1) the term ‘counterfeit label’ means an identifying
 36 label or container that appears to be genuine, but is not;

1 “(2) the term ‘traffic’ has the meaning givent that term
2 in section 680;

3 “(3) the terms ‘copy’, ‘phonorecord’, ‘motion picture’,
4 ‘computer program’, ‘audiovisual work’, ‘literary work’,
5 ‘pictorial, graphic, or sculptural work’, ‘sound recording’,
6 ‘work of visual art’, and ‘copyright owner’ have, respec-
7 tively, the meanings given those terms in section 101 (re-
8 lating to definitions) of title 17;

9 “(4) the term ‘illicit label’ means a genuine certificate,
10 licensing document, registration card, or similar labeling
11 component—

12 “(A) that is used by the copyright owner to verify
13 that a phonorecord, a copy of a computer program, a
14 copy of a motion picture or other audiovisual work, a
15 copy of a literary work, a copy of a pictorial, graphic,
16 or sculptural work, a work of visual art, or documenta-
17 tion or packaging is not counterfeit or infringing of any
18 copyright; and

19 “(B) that is, without the authorization of the copy-
20 right owner—

21 “(i) distributed or intended for distribution not
22 in connection with the copy, phonorecord, or work
23 of visual art to which such labeling component was
24 intended to be affixed by the respective copyright
25 owner; or

26 “(ii) in connection with a genuine certificate or
27 licensing document, knowingly falsified in order to
28 designate a higher number of licensed users or cop-
29 ies than authorized by the copyright owner, unless
30 that certificate or document is used by the copy-
31 right owner solely for the purpose of monitoring or
32 tracking the copyright owner’s distribution channel
33 and not for the purpose of verifying that a copy or
34 phonorecord is noninfringing;

35 “(5) the term ‘documentation or packaging’ means docu-
36 mentation or packaging, in physical form, for a phono-
37 record, copy of a computer program, copy of a motion pic-

1 ture or other audiovisual work, copy of a literary work,
2 copy of a pictorial, graphic, or sculptural work, or work of
3 visual art; and

4 “(6) the term ‘counterfeit documentation or packaging’
5 means documentation or packaging that appears to be gen-
6 uine, but is not.

7 “(c) APPLICATION.—Subsection (a) applies if—

8 “(1) the offense is committed within the special maritime
9 and territorial jurisdiction of the United States; or within
10 the special aircraft jurisdiction of the United States (as de-
11 fined in section 46501 of title 49);

12 “(2) the mail or a facility of interstate or foreign com-
13 merce is used or intended to be used in the commission of
14 the offense;

15 “(3) the counterfeit label or illicit label is affixed to, en-
16 closes, or accompanies, or is designed to be affixed to, en-
17 close, or accompany—

18 “(A) a phonorecord of a copyrighted sound recording
19 or copyrighted musical work;

20 “(B) a copy of a copyrighted computer program;

21 “(C) a copy of a copyrighted motion picture or other
22 audiovisual work;

23 “(D) a copy of a literary work;

24 “(E) a copy of a pictorial, graphic, or sculptural
25 work;

26 “(F) a work of visual art; or

27 “(G) copyrighted documentation or packaging; or

28 “(4) the counterfeited documentation or packaging is
29 copyrighted.

30 “(d) FORFEITURE.—When any person is convicted of any
31 violation of subsection (a), the court in its judgment of convic-
32 tion shall in addition to the penalty therein prescribed, order
33 the forfeiture and destruction or other disposition of all coun-
34 terfeit labels or illicit labels and all articles to which counterfeit
35 labels or illicit labels have been affixed or which were intended
36 to have had such labels affixed, and of any equipment, device,

1 or material used to manufacture, reproduce, or assemble the
2 counterfeit labels or illicit labels.

3 “(e) APPLICATION OF SECTION 509 OF TITLE XVII.—Ex-
4 cept to the extent they are inconsistent with the provisions of
5 this title, all provisions of section 509, title 17, are applicable
6 to violations of subsection (a).

7 “(f) CIVIL REMEDIES.—

8 “(1) IN GENERAL.—Any copyright owner who is injured,
9 or is threatened with injury, by a violation of subsection (a)
10 may bring a civil action in an appropriate United States
11 district court.

12 “(2) DISCRETION OF COURT.—In any action brought
13 under paragraph (1), the court—

14 “(A) may grant 1 or more temporary or permanent
15 injunctions on such terms as the court determines to
16 be reasonable to prevent or restrain a violation of sub-
17 section (a);

18 “(B) at any time while the action is pending, may
19 order the impounding, on such terms as the court de-
20 termines to be reasonable, of any article that is in the
21 custody or control of the alleged violator and that the
22 court has reasonable cause to believe was involved in a
23 violation of subsection (a); and

24 “(C) may award to the injured party—

25 “(i) reasonable attorney fees and costs; and

26 “(ii)(I) actual damages and any additional prof-
27 its of the violator, as provided in paragraph (3); or

28 “(II) statutory damages, as provided in para-
29 graph (4).

30 “(3) ACTUAL DAMAGES AND PROFITS.—

31 “(A) IN GENERAL.—The injured party is entitled to
32 recover—

33 “(i) the actual damages suffered by the injured
34 party as a result of a violation of subsection (a),
35 as provided in subparagraph (B) of this paragraph;
36 and

1 “(ii) any profits of the violator that are attrib-
2 utable to a violation of subsection (a) and are not
3 taken into account in computing the actual dam-
4 ages.

5 “(B) CALCULATION OF DAMAGES.—The court shall
6 calculate actual damages by multiplying—

7 “(i) the value of the phonorecords, copies, or
8 works of visual art which are, or are intended to
9 be, affixed with, enclosed in, or accompanied by
10 any counterfeit labels, illicit labels, or counterfeit
11 documentation or packaging, by

12 “(ii) the number of phonorecords, copies, or
13 works of visual art which are, or are intended to
14 be, affixed with, enclosed in, or accompanied by
15 any counterfeit labels, illicit labels, or counterfeit
16 documentation or packaging.

17 “(C) DEFINITION.—For purposes of this paragraph,
18 the ‘value’ of a phonorecord, copy, or work of visual art
19 is—

20 “(i) in the case of a copyrighted sound recording
21 or copyrighted musical work, the retail value of an
22 authorized phonorecord of that sound recording or
23 musical work;

24 “(ii) in the case of a copyrighted computer pro-
25 gram, the retail value of an authorized copy of that
26 computer program;

27 “(iii) in the case of a copyrighted motion picture
28 or other audiovisual work, the retail value of an au-
29 thorized copy of that motion picture or audiovisual
30 work;

31 “(iv) in the case of a copyrighted literary work,
32 the retail value of an authorized copy of that lit-
33 erary work;

34 “(v) in the case of a pictorial, graphic, or sculp-
35 tural work, the retail value of an authorized copy
36 of that work; and

1 “(vi) in the case of a work of visual art, the re-
2 tail value of that work.

3 “(4) STATUTORY DAMAGES.—The injured party may
4 elect, at any time before final judgment is rendered, to re-
5 cover, instead of actual damages and profits, an award of
6 statutory damages for each violation of subsection (a) in a
7 sum of not less than \$2,500 or more than \$25,000, as the
8 court considers appropriate.

9 “(5) SUBSEQUENT VIOLATION.—The court may increase
10 an award of damages under this subsection by 3 times the
11 amount that would otherwise be awarded, as the court con-
12 siders appropriate, if the court finds that a person has sub-
13 sequently violated subsection (a) within 3 years after a
14 final judgment was entered against that person for a viola-
15 tion of that subsection.

16 “(6) LIMITATION ON ACTIONS.—A civil action may not
17 be commenced under section unless it is commenced within
18 3 years after the date on which the claimant discovers the
19 violation of subsection (a).

20 **“§ 676. Criminal infringement of a copyright**

21 “(a) SECTION 506A OFFENSES IN GENERAL.—Whoever vio-
22 lates section 506(a) (relating to criminal offenses) of title 17
23 shall be punished as provided in subsections (b), (c), and (d)
24 and such penalties shall be in addition to any other provisions
25 of title 17 or any other law.

26 “(b) SUBSECTION (a)(1)(A) OFFENSES.—Whoever commits
27 an offense under section 506(a)(1)(A) of title 17—

28 “(1) shall be imprisoned not more than 5 years, if the
29 offense consists of the reproduction or distribution, includ-
30 ing by electronic means, during any 180-day period, of at
31 least 10 copies or phonorecords, of 1 or more copyrighted
32 works, which have a total retail value of more than \$2,500;

33 “(2) shall be imprisoned not more than 10 years if the
34 offense is a second or subsequent offense under paragraph
35 (1); and

36 “(3) shall be imprisoned not more than 1 year in any
37 other case.

1 “(c) SUBSECTION (a)(1)(B) OFFENSES.—Whoever commits
2 an offense under section 506(a)(1)(B) of title 17—

3 “(1) shall be imprisoned not more than 3 years, if the
4 offense consists of the reproduction or distribution of 10 or
5 more copies or phonorecords of 1 or more copyrighted
6 works, which have a total retail value of \$2,500 or more;

7 “(2) shall be imprisoned not more than 6 years, or if the
8 offense is a second or subsequent offense under paragraph
9 (1); and

10 “(3) shall be imprisoned not more than 1 year, or if the
11 offense consists of the reproduction or distribution of 1 or
12 more copies or phonorecords of 1 or more copyrighted
13 works, which have a total retail value of more than \$1,000.

14 “(d) SUBSECTION (a)(1)(C) OFFENSES.—Whoever commits
15 an offense under section 506(a)(1)(C) of title 17—

16 “(1) shall be imprisoned not more than 3 years;

17 “(2) shall be imprisoned not more than 5 years if the of-
18 fense was committed for purposes of commercial advantage
19 or private financial gain;

20 “(3) shall be imprisoned not more than 6 years if the of-
21 fense is a second or subsequent offense; and

22 “(4) shall be imprisoned not more than 10 years if the
23 offense is a second or subsequent offense under paragraph
24 (2).

25 “(e) VICTIM IMPACT.—

26 “(1) IN GENERAL.—During preparation of the
27 presentence report pursuant to Rule 32(c) of the Federal
28 Rules of Criminal Procedure, victims of the offense shall be
29 permitted to submit, and the probation officer shall receive,
30 a victim impact statement that identifies the victim of the
31 offense and the extent and scope of the injury and loss suf-
32 fered by the victim, including the estimated economic im-
33 pact of the offense on that victim.

34 “(2) PERSONS PERMITTED TO SUBMIT.—Persons per-
35 mitted to submit victim impact statements shall include—

36 “(A) producers and sellers of legitimate works af-
37 fected by conduct involved in the offense;

1 “(B) holders of intellectual property rights in such
2 works; and

3 “(C) the legal representatives of such producers, sell-
4 ers, and holders.

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

6 “(1) the terms ‘phonorecord’ and ‘copies’ have, respec-
7 tively, the meanings set forth in section 101 (relating to
8 definitions) of title 17;

9 “(2) the terms ‘reproduction’ and ‘distribution’ refer to
10 the exclusive rights of a copyright owner under clauses (1)
11 and (3) respectively of section 106 (relating to exclusive
12 rights in copyrighted works), as limited by sections 107
13 through 122, of title 17;

14 “(3) the term ‘financial gain’ has the meaning given the
15 term in section 101 of title 17; and

16 “(4) the term ‘work being prepared for commercial dis-
17 tribution’ has the meaning given the term in section 506(a)
18 of title 17.

19 **“§ 677. Copyright infringement**

20 “(a) CRIMINAL INFRINGEMENT.—

21 “(1) IN GENERAL.—Any person who knowingly infringes
22 a copyright shall be punished as provided under section
23 676, if the infringement was committed—

24 “(A) for purposes of commercial advantage or pri-
25 vate financial gain;

26 “(B) by the reproduction or distribution, including
27 by electronic means, during any 180-day period, of 1
28 or more copies or phonorecords of 1 or more copy-
29 righted works, which have a total retail value of more
30 than \$1,000; or

31 “(C) by the distribution of a work being prepared for
32 commercial distribution, by making it available on a
33 computer network accessible to members of the public,
34 if such person knew or should have known that the
35 work was intended for commercial distribution.

36 “(2) EVIDENCE.—For purposes of this subsection, evi-
37 dence of reproduction or distribution of a copyrighted work,

1 by itself, shall not be sufficient to establish knowing in-
2 fringement of a copyright.

3 “(3) DEFINITION.—In this subsection, the term ‘work
4 being prepared for commercial distribution’ means—

5 “(A) a computer program, a musical work, a motion
6 picture or other audiovisual work, or a sound recording,
7 if, at the time of unauthorized distribution—

8 “(i) the copyright owner has a reasonable expect-
9 tation of commercial distribution; and

10 “(ii) the copies or phonorecords of the work have
11 not been commercially distributed; or

12 “(B) a motion picture, if, at the time of unauthor-
13 ized distribution, the motion picture—

14 “(i) has been made available for viewing in a mo-
15 tion picture exhibition facility; and

16 “(ii) has not been made available in copies for
17 sale to the general public in the United States in
18 a format intended to permit viewing outside a mo-
19 tion picture exhibition facility.

20 “(b) FORFEITURE AND DESTRUCTION.—When any person is
21 convicted of any violation of subsection (a), the court in its
22 judgment of conviction shall, in addition to the penalty therein
23 prescribed, order the forfeiture and destruction or other dis-
24 position of all infringing copies or phonorecords and all imple-
25 ments, devices, or equipment used in the manufacture of such
26 infringing copies or phonorecords.

27 “(c) FRAUDULENT COPYRIGHT NOTICE.—Any person who,
28 with fraudulent intent, places on any article a notice of copy-
29 right or words of the same purport that such person knows to
30 be false, or who, with fraudulent intent, publicly distributes or
31 imports for public distribution any article bearing such notice
32 or words that such person knows to be false, shall be fined not
33 more than \$2,500.

34 “(d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—Any
35 person who, with fraudulent intent, removes or alters any no-
36 tice of copyright appearing on a copy of a copyrighted work
37 shall be fined not more than \$2,500.

1 “(e) FALSE REPRESENTATION.—Any person who knowingly
2 makes a false representation of a material fact in the applica-
3 tion for copyright registration provided for by section 409 of
4 title 17, or in any written statement filed in connection with
5 the application, shall be fined not more than \$2,500.

6 “(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in
7 this section applies to infringement of the rights conferred by
8 section 106A(a) of title 17.

9 **“§ 678. Unauthorized fixation of and trafficking in**
10 **sound recordings and music videos of live**
11 **musical performances**

12 “(a) OFFENSE.—Whoever, without the consent of the per-
13 former or performers involved, knowingly and for purposes of
14 commercial advantage or private financial gain—

15 “(1) fixes the sounds or sounds and images of a live mu-
16 sical performance in a copy or phonorecord, or reproduces
17 copies or phonorecords of such a performance from an un-
18 authorized fixation;

19 “(2) transmits or otherwise communicates to the public
20 the sounds or sounds and images of a live musical perform-
21 ance; or

22 “(3) distributes or offers to distribute, sells or offers to
23 sell, rents or offers to rent, or traffics in any copy or pho-
24 norecord fixed as described in paragraph (1), regardless of
25 whether the fixations occurred in the United States;

26 shall be imprisoned for not more than 5 years or if the offense
27 is a second or subsequent offense, shall be imprisoned for not
28 more than 10 years.

29 “(b) FORFEITURE AND DESTRUCTION.—When a person is
30 convicted of a violation of subsection (a), the court shall order
31 the forfeiture and destruction of any copies or phonorecords
32 created in violation thereof, as well as any plates, molds, mat-
33 rices, masters, tapes, and film negatives by means of which
34 such copies or phonorecords may be made. The court may also,
35 in its discretion, order the forfeiture and destruction of any
36 other equipment by means of which such copies or
37 phonorecords may be reproduced, taking into account the na-

1 ture, scope, and proportionality of the use of the equipment in
2 the offense.

3 “(c) SEIZURE AND FORFEITURE.—If copies or phonorecords
4 of sounds or sounds and images of a live musical performance
5 are fixed outside of the United States without the consent of
6 the performer or performers involved, such copies or
7 phonorecords are subject to seizure and forfeiture in the United
8 States in the same manner as property imported in violation
9 of the customs laws. The Secretary of the Treasury shall, not
10 later than 60 days after the date of the enactment of the Uru-
11 guay Round Agreements Act, issue regulations to carry out this
12 subsection, including regulations by which any performer may,
13 upon payment of a specified fee, be entitled to notification by
14 the United States Customs Service of the importation of copies
15 or phonorecords that appear to consist of unauthorized fixa-
16 tions of the sounds or sounds and images of a live musical per-
17 formance.

18 “(d) VICTIM IMPACT STATEMENT.—(1) During preparation
19 of the presentence report pursuant to Rule 32(c) of the Federal
20 Rules of Criminal Procedure, victims of the offense shall be
21 permitted to submit, and the probation officer shall receive, a
22 victim impact statement that identifies the victim of the offense
23 and the extent and scope of the injury and loss suffered by the
24 victim, including the estimated economic impact of the offense
25 on that victim.

26 “(2) Persons permitted to submit victim impact statements
27 shall include—

28 “(A) producers and sellers of legitimate works affected
29 by conduct involved in the offense;

30 “(B) holders of intellectual property rights in such
31 works; and

32 “(C) the legal representatives of such producers, sellers,
33 and holders.

34 “(e) DEFINITIONS.—As used in this section—

35 “(1) the terms ‘copy’, ‘fixed’, ‘musical work’, ‘phono-
36 record’, ‘reproduce’, ‘sound recordings’, and ‘transmit’
37 mean those terms within the meaning of title 17; and

1 “(2) the term ‘traffic’ has the meaning given that term
2 in section 680.

3 “(f) APPLICABILITY.—This section shall apply to any con-
4 duct that occurs on or after the date of the enactment of the
5 Uruguay Round Agreements Act.

6 **“§ 679. Unauthorized recording of motion pictures**
7 **in a motion picture exhibition facility**

8 “(a) OFFENSE.—Any person who, without the authorization
9 of the copyright owner, knowingly uses or attempts to use an
10 audiovisual recording device to transmit or make a copy of a
11 motion picture or other audiovisual work protected under title
12 17, or any part thereof, from a performance of such work in
13 a motion picture exhibition facility, shall—

14 “(1) be imprisoned for not more than 3 years; or

15 “(2) if the offense is a second or subsequent offense, be
16 imprisoned for no more than 6 years.

17 The possession by a person of an audiovisual recording device
18 in a motion picture exhibition facility may be considered as evi-
19 dence in any proceeding to determine whether that person com-
20 mitted an offense under this subsection, but shall not, by itself,
21 be sufficient to support a conviction of that person for such of-
22 fense.

23 “(b) FORFEITURE AND DESTRUCTION.—When a person is
24 convicted of a violation of subsection (a), the court in its judg-
25 ment of conviction shall, in addition to any penalty provided,
26 order the forfeiture and destruction or other disposition of all
27 unauthorized copies of motion pictures or other audiovisual
28 works protected under title 17, or parts thereof, and any audio-
29 visual recording devices or other equipment used in connection
30 with the offense.

31 “(c) AUTHORIZED ACTIVITIES.—This section does not pre-
32 vent any lawfully authorized investigative, protective, or intel-
33 ligence activity by an officer, agent, or employee of the United
34 States, a State, or a political subdivision of a State, or by a
35 person acting under a contract with the United States, a State,
36 or a political subdivision of a State.

1 “(d) IMMUNITY FOR THEATERS.—With reasonable cause, the
 2 owner or lessee of a motion picture exhibition facility where a
 3 motion picture or other audiovisual work is being exhibited, the
 4 authorized agent or employee of such owner or lessee, the licen-
 5 sor of the motion picture or other audiovisual work being exhib-
 6 ited, or the agent or employee of such licensor—

7 “(1) may detain, in a reasonable manner and for a rea-
 8 sonable time, any person suspected of a violation of this
 9 section with respect to that motion picture or audiovisual
 10 work for the purpose of questioning or summoning a law
 11 enforcement officer; and

12 “(2) shall not be held liable in any civil or criminal ac-
 13 tion arising out of a detention under paragraph (1).

14 “(e) VICTIM IMPACT STATEMENT.—

15 “(1) IN GENERAL.—During the preparation of the
 16 presentence report under rule 32(c) of the Federal Rules
 17 of Criminal Procedure, victims of an offense under this sec-
 18 tion shall be permitted to submit to the probation officer
 19 a victim impact statement that identifies the victim of the
 20 offense and the extent and scope of the injury and loss suf-
 21 fered by the victim, including the estimated economic im-
 22 pact of the offense on that victim.

23 “(2) CONTENTS.—A victim impact statement submitted
 24 under this subsection shall include—

25 “(A) producers and sellers of legitimate works af-
 26 fected by conduct involved in the offense;

27 “(B) holders of intellectual property rights in the
 28 works described in subparagraph (A); and

29 “(C) the legal representatives of such producers, sell-
 30 ers, and holders.

31 “(f) STATE LAW NOT PREEMPTED.—Nothing in this section
 32 may be construed to annul or limit any rights or remedies
 33 under the laws of any State.

34 “(g) DEFINITIONS.—In this section, the following definitions
 35 shall apply:

36 “(1) TITLE 17 DEFINITIONS.—The terms ‘audiovisual
 37 work’, ‘copy’, ‘copyright owner’, ‘motion picture’, ‘motion

1 picture exhibition facility’, and ‘transmit’ have, respectively,
2 the meanings given those terms in section 101 of title 17.

3 “(2) AUDIOVISUAL RECORDING DEVICE.—The term
4 ‘audiovisual recording device’ means a digital or analog
5 photographic or video camera, or any other technology or
6 device capable of enabling the recording or transmission of
7 a copyrighted motion picture or other audiovisual work, or
8 any part thereof, regardless of whether audiovisual record-
9 ing is the sole or primary purpose of the device.

10 **“§ 680. Trafficking in counterfeit goods or services**

11 “(a) Whoever intentionally traffics or attempts to traffic in
12 goods or services and knowingly uses a counterfeit mark on or
13 in connection with such goods or services, or intentionally traf-
14 fics or attempts to traffic in labels, patches, stickers, wrappers,
15 badges, emblems, medallions, charms, boxes, containers, cans,
16 cases, hangtags, documentation, or packaging of any type or
17 nature, knowing that a counterfeit mark has been applied
18 thereto, the use of which is likely to cause confusion, to cause
19 mistake, or to deceive, shall, if an individual, be fined not more
20 than \$2,000,000 or imprisoned not more than 10 years, or
21 both, and, if a person other than an individual, be fined not
22 more than \$5,000,000. In the case of an offense by a person
23 under this section that occurs after that person is convicted of
24 another offense under this section, the person convicted, if an
25 individual, shall be fined not more than \$5,000,000 or impris-
26 oned not more than 20 years, or both, and if other than an
27 individual, shall be fined not more than \$15,000,000.

28 “(b)(1) The following property shall be subject to forfeiture
29 to the United States and no property right shall exist in such
30 property:

31 “(A) Any article bearing or consisting of a counterfeit
32 mark used in committing a violation of subsection (a).

33 “(B) Any property used, in any manner or part, to com-
34 mit or to facilitate the commission of a violation of sub-
35 section (a).

36 “(2) The provisions of chapter 46 of this title relating to civil
37 forfeitures, including section 983 of this title, shall extend to

1 any seizure or civil forfeiture under this section. At the conclu-
2 sion of the forfeiture proceedings, the court, unless otherwise
3 requested by an agency of the United States, shall order that
4 any forfeited article bearing or consisting of a counterfeit mark
5 be destroyed or otherwise disposed of according to law.

6 “(3)(A) The court, in imposing sentence on a person con-
7 victed of an offense under this section, shall order, in addition
8 to any other sentence imposed, that the person forfeit to the
9 United States—

10 “(i) any property constituting or derived from any pro-
11 ceeds the person obtained, directly or indirectly, as the re-
12 sult of the offense;

13 “(ii) any of the person’s property used, or intended to be
14 used, in any manner or part, to commit, facilitate, aid, or
15 abet the commission of the offense; and

16 “(iii) any article that bears or consists of a counterfeit
17 mark used in committing the offense.

18 “(B) The forfeiture of property under subparagraph (A), in-
19 cluding any seizure and disposition of the property and any re-
20 lated judicial or administrative proceeding, shall be governed by
21 the procedures set forth in section 413 of the Comprehensive
22 Drug Abuse Prevention and Control Act of 1970 (21 U.S.C.
23 853), other than subsection (d) of that section. Notwith-
24 standing section 413(h) of that Act, at the conclusion of the
25 forfeiture proceedings, the court shall order that any forfeited
26 article or component of an article bearing or consisting of a
27 counterfeit mark be destroyed.

28 “(4) When a person is convicted of an offense under this sec-
29 tion, the court, pursuant to sections 3556, 3663A, and 3664,
30 shall order the person to pay restitution to the owner of the
31 mark and any other victim of the offense as an offense against
32 property referred to in section 3663A(c)(1)(A)(ii).

33 “(5) The term ‘victim’, as used in paragraph (4), has the
34 meaning given that term in section 3663A(a)(2).

35 “(c) All defenses, affirmative defenses, and limitations on
36 remedies that would be applicable in an action under the
37 Lanham Act shall be applicable in a prosecution under this sec-

1 tion. In a prosecution under this section, the defendant shall
2 have the burden of proof, by a preponderance of the evidence,
3 of any such affirmative defense.

4 “(d)(1) During preparation of the presentence report pursu-
5 ant to Rule 32(c) of the Federal Rules of Criminal Procedure,
6 victims of the offense shall be permitted to submit, and the
7 probation officer shall receive, a victim impact statement that
8 identifies the victim of the offense and the extent and scope of
9 the injury and loss suffered by the victim, including the esti-
10 mated economic impact of the offense on that victim.

11 “(2) Persons permitted to submit victim impact statements
12 shall include—

13 “(A) producers and sellers of legitimate goods or services
14 affected by conduct involved in the offense;

15 “(B) holders of intellectual property rights in such goods
16 or services; and

17 “(C) the legal representatives of such producers, sellers,
18 and holders.

19 “(e) For the purposes of this section—

20 “(1) the term ‘counterfeit mark’ means—

21 “(A) a spurious mark—

22 “(i) that is used in connection with trafficking in
23 any goods, services, labels, patches, stickers, wrap-
24 pers, badges, emblems, medallions, charms, boxes,
25 containers, cans, cases, hangtags, documentation,
26 or packaging of any type or nature;

27 “(ii) that is identical with, or substantially indis-
28 tinguishable from, a mark registered on the prin-
29 cipal register in the United States Patent and
30 Trademark Office and in use, whether or not the
31 defendant knew such mark was so registered;

32 “(iii) that is applied to or used in connection
33 with the goods or services for which the mark is
34 registered with the United States Patent and
35 Trademark Office, or is applied to or consists of a
36 label, patch, sticker, wrapper, badge, emblem, me-
37 dallion, charm, box, container, can, case, hangtag,

1 documentation, or packaging of any type or nature
2 that is designed, marketed, or otherwise intended
3 to be used on or in connection with the goods or
4 services for which the mark is registered in the
5 United States Patent and Trademark Office; and

6 “(iv) the use of which is likely to cause confu-
7 sion, to cause mistake, or to deceive; or

8 “(B) a spurious designation that is identical with, or
9 substantially indistinguishable from, a designation as to
10 which the remedies of the Lanham Act are made avail-
11 able by reason of section 220506 of title 36

12 but such term does not include any mark or designation
13 used in connection with goods or services, or a mark or
14 designation applied to labels, patches, stickers, wrappers,
15 badges, emblems, medallions, charms, boxes, containers,
16 cans, cases, hangtags, documentation, or packaging of any
17 type or nature used in connection with such goods or serv-
18 ices, of which the manufacturer or producer was, at the
19 time of the manufacture or production in question, author-
20 ized to use the mark or designation for the type of goods
21 or services so manufactured or produced, by the holder of
22 the right to use such mark or designation.

23 “(2) the term ‘traffic’ means to transport, transfer, or
24 otherwise dispose of, to another, for purposes of commer-
25 cial advantage or private financial gain, or to make, import,
26 export, obtain control of, or possess, with intent to so
27 transport, transfer, or otherwise dispose of;

28 “(3) the term ‘financial gain’ includes the receipt, or ex-
29 pected receipt, of anything of value; and

30 “(4) the term ‘Lanham Act’ means the Act entitled ‘An
31 Act to provide for the registration and protection of trade-
32 marks used in commerce, to carry out the provisions of cer-
33 tain international conventions, and for other purposes’, ap-
34 proved July 5, 1946 (15 U.S.C. 1051 et seq.).

35 “(f) Nothing in this section shall entitle the United States
36 to bring a criminal cause of action under this section for the

1 repackaging of genuine goods or services not intended to de-
2 ceive or confuse.

3 “(g)(1) Beginning with the first year after the date of enact-
4 ment of this subsection, the Attorney General shall include in
5 the report of the Attorney General to Congress on the business
6 of the Department of Justice prepared pursuant to section 522
7 of title 28, an accounting, on a district by district basis, of the
8 following with respect to all actions taken by the Department
9 of Justice that involve trafficking in counterfeit labels for
10 phonorecords, copies of computer programs or computer pro-
11 gram documentation or packaging, copies of motion pictures or
12 other audiovisual works (as defined in section 2318 of this
13 title), criminal infringement of copyrights (as defined in section
14 2319 of this title), unauthorized fixation of and trafficking in
15 sound recordings and music videos of live musical performances
16 (as defined in section 2319A of this title), or trafficking in
17 goods or services bearing counterfeit marks (as defined in sec-
18 tion 2320 of this title):

19 “(A) The number of open investigations.

20 “(B) The number of cases referred by the United States
21 Customs Service.

22 “(C) The number of cases referred by other agencies or
23 sources.

24 “(D) The number and outcome, including settlements,
25 sentences, recoveries, and penalties, of all prosecutions
26 brought under sections 2318, 2319, 2319A, and 2320 of
27 title 18.

28 “(2)(A) The report under paragraph (1), with respect to
29 criminal infringement of copyright, shall include the following:

30 “(i) The number of infringement cases in these cat-
31 egories: audiovisual (videos and films); audio (sound re-
32 cordings); literary works (books and musical compositions);
33 computer programs; video games; and, others.

34 “(ii) The number of online infringement cases.

35 “(iii) The number and dollar amounts of fines assessed
36 in specific categories of dollar amounts. These categories
37 shall be: no fines ordered; fines under \$500; fines from

1 \$500 to \$1,000; fines from \$1,000 to \$5,000; fines from
2 \$5,000 to \$10,000; and fines over \$10,000.

3 “(iv) The total amount of restitution ordered in all copy-
4 right infringement cases.

5 “(B) In this paragraph, the term ‘online infringement cases’
6 as used in paragraph (2) means those cases where the in-
7 fringer—

8 “(i) advertised or publicized the infringing work on the
9 Internet; or

10 “(ii) made the infringing work available on the Internet
11 for download, reproduction, performance, or distribution by
12 other persons.

13 “(C) The information required under subparagraph (A) shall
14 be submitted in the report required in fiscal year 2005 and
15 thereafter.

16 **“§ 681. Trafficking in certain motor vehicles or**
17 **motor vehicle parts**

18 “(a) OFFENSE.—Whoever buys, receives, possesses, or ob-
19 tains control of, with intent to sell or otherwise dispose of, a
20 motor vehicle or motor vehicle part, knowing that an identifica-
21 tion number for such motor vehicle or part has been removed,
22 obliterated, tampered with, or altered, shall be imprisoned not
23 more than ten years.

24 “(b) NONAPPLICABILITY.—Subsection (a) does not apply if
25 the removal, obliteration, tampering, or alteration—

26 “(1) is caused by collision or fire; or

27 “(2) is not a violation of section 718.

28 “(c) DEFINITIONS.—As used in this section, the terms ‘iden-
29 tification number’ and ‘motor vehicle’ have the meaning given
30 those terms in section 718.

31 **“§ 682. Chop shops**

32 “(a) IN GENERAL.—

33 “(1) UNLAWFUL ACTION.—Any person who knowingly
34 owns, operates, maintains, or controls a chop shop or con-
35 ducts operations in a chop shop shall be punished by im-
36 prisonment for not more than 15 years. If a conviction of
37 a person under this paragraph is for a violation committed

1 after the first conviction of such person under this para-
 2 graph, the maximum punishment shall be doubled with re-
 3 spect to any fine and imprisonment.

4 “(2) INJUNCTIONS.—The Attorney General shall, as ap-
 5 propriate, in the case of any person who violates paragraph
 6 (1), commence a civil action for permanent or temporary
 7 injunction to restrain such violation.

8 “(b) DEFINITION.—For purposes of this section, the term
 9 ‘chop shop’ means any building, lot, facility, or other structure
 10 or premise where one or more persons engage in receiving, con-
 11 cealing, destroying, disassembling, dismantling, reassembling,
 12 or storing any passenger motor vehicle or passenger motor ve-
 13 hicle part which has been unlawfully obtained in order to alter,
 14 counterfeit, deface, destroy, disguise, falsify, forge, obliterate,
 15 or remove the identity, including the vehicle identification num-
 16 ber or derivative thereof, of such vehicle or vehicle part and to
 17 distribute, sell, or dispose of such vehicle or vehicle part in
 18 interstate or foreign commerce.

19 “SUBCHAPTER C—COUNTERFEITING AND 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 counter-
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“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 se-
 curities.

“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 counter-
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“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.

1 **“§ 691. Counterfeit acts committed outside the**
 2 **United States**

3 “Whoever outside the United States, engages in the act of—

4 “(1) making, dealing, or possessing any counterfeit obli-
 5 gation or other security of the United States; or

6 “(2) making, dealing, or possessing any plate, stone,
 7 analog, digital, or electronic image, or other thing, or any
 8 part thereof, used to counterfeit such obligation or security,

9 if such act would constitute a violation of section 692, 693, or
 10 694 if committed within the United States, shall be punished
 11 as is provided for the like offense within the United States.

12 **“§ 692. Obligations or securities of United States**

13 “Whoever, with intent to defraud, falsely makes, forges,
 14 counterfeits, or alters any obligation or other security of the
 15 United States, shall be imprisoned not more than 20 years.

16 **“§ 693. Uttering counterfeit obligations or securi-**
 17 **ties**

18 “Whoever, with intent to defraud, passes, utters, publishes,
 19 or sells, or attempts to pass, utter, publish, or sell, or with like
 20 intent brings into the United States or keeps in possession or
 21 conceals any falsely made, forged, counterfeited, or altered obli-
 22 gation or other security of the United States, shall be impris-
 23 oned not more than 20 years.

24 **“§ 694. Dealing in counterfeit obligations or secu-**
 25 **rities**

26 “Whoever buys, sells, exchanges, transfers, receives, or deliv-
 27 ers any false, forged, counterfeited, or altered obligation or
 28 other security of the United States, with the intent that the
 29 same be passed, published, or used as true and genuine, shall
 30 be imprisoned not more than 20 years.

1 **“§ 695. Plates, stones, or analog, digital, or elec-**
2 **tronic images for counterfeiting obliga-**
3 **tions or securities**

4 “(a) OFFENSE.—Whoever—

5 “(1) having control, custody, or possession of any plate,
6 stone, or other thing, or any part thereof, from which has
7 been printed, or which may be prepared by direction of the
8 Secretary of the Treasury for the purpose of printing, any
9 obligation or other security of the United States, uses such
10 plate, stone, or other thing, or any part thereof, or know-
11 ingly suffers the same to be used for the purpose of print-
12 ing any such or similar obligation or other security, or any
13 part thereof, except as may be printed for the use of the
14 United States by order of the proper officer thereof;

15 “(2) makes or executes any plate, stone, or other thing
16 in the likeness of any plate designated for the printing of
17 such obligation or other security;

18 “(3) with intent to defraud, makes, executes, acquires,
19 scans,captures, records, receives, transmits, reproduces,
20 sells, or has in such person’s control, custody, or posses-
21 sion, an analog, digital, or electronic image of any obliga-
22 tion or other security of the United States;

23 “(4) sells any such plate, stone, or other thing, or brings
24 into the United States any such plate, stone, or other
25 thing, except under the direction of the Secretary of the
26 Treasury or other proper officer, or with any other intent,
27 in either case, than that such plate, stone, or other thing
28 be used for the printing of the obligations or other securi-
29 ties of the United States;

30 “(5) has in his control, custody, or possession any plate,
31 stone, or other thing in any manner made after or in the
32 similitude of any plate, stone, or other thing, from which
33 any such obligation or other security has been printed, with
34 intent to use such plate, stone, or other thing, or to suffer
35 the same to be used in forging or counterfeiting any such
36 obligation or other security, or any part thereof;

1 “(6) has in his possession or custody, except under au-
2 thority from the Secretary of the Treasury or other proper
3 officer, any obligation or other security made or executed,
4 in whole or in part, after the similitude of any obligation
5 or other security issued under the authority of the United
6 States, with intent to sell or otherwise use the same; or

7 “(7) prints, photographs, or in any other manner makes
8 or executes any engraving, photograph, print, or impression
9 in the likeness of any such obligation or other security, or
10 any part thereof, or sells any such engraving, photograph,
11 print, or impression, except to the United States, or brings
12 into the United States, any such engraving, photograph,
13 print, or impression, except by direction of some proper of-
14 ficer of the United States;

15 shall be imprisoned not more than 25 years.

16 “(b) DEFINITION.—For purposes of this section, the term
17 ‘analog, digital, or electronic image’ includes any analog, dig-
18 ital, or electronic method used for the making, execution, acqui-
19 sition, scanning, capturing, recording, retrieval, transmission,
20 or reproduction of any obligation or security, unless such use
21 is authorized by the Secretary of the Treasury. The Secretary
22 shall establish a system (pursuant to section 504) to ensure
23 that the legitimate use of such electronic methods and retention
24 of such reproductions by businesses, hobbyists, press and oth-
25 ers shall not be unduly restricted.

26 **“§ 696. Deterrents to counterfeiting of obligations**
27 **and securities**

28 “(a) OFFENSE.—Whoever—

29 “(1) has in his control or possession, after a distinctive
30 paper has been adopted by the Secretary of the Treasury
31 for the obligations and other securities of the United
32 States, any similar paper adapted to the making of any
33 such obligation or other security, except under the author-
34 ity of the Secretary of the Treasury; or

35 “(2) has in his control or possession, after a distinctive
36 counterfeit deterrent has been adopted by the Secretary of
37 the Treasury for the obligations and other securities of the

1 United States by publication in the Federal Register, any
2 essentially identical feature or device adapted to the mak-
3 ing of any such obligation or security, except under the au-
4 thority of the Secretary of the Treasury;
5 shall be imprisoned for not more than 25 years.

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

7 “(1) the term ‘distinctive paper’ includes any distinctive
8 medium of which currency is made, whether of wood pulp,
9 rag, plastic substrate, or other natural or artificial fibers
10 or materials; and

11 “(2) the term ‘distinctive counterfeit deterrent’ includes
12 any ink, watermark, seal, security thread, optically variable
13 device, or other feature or device;

14 “(A) in which the United States has an exclusive
15 property interest; or

16 “(B) which is not otherwise in commercial use or in
17 the public domain and which the Secretary designates
18 as being necessary in preventing the counterfeiting of
19 obligations or other securities of the United States.

20 **“§ 697. Taking impressions of tools used for obli-**
21 **gations or securities**

22 “Whoever, without authority from the United States, takes,
23 procures, or makes an impression, stamp, analog, digital, or
24 electronic image, or imprint of, from or by the use of any tool,
25 implement, instrument, or thing used or fitted or intended to
26 be used in printing, stamping, or impressing, or in making
27 other tools, implements, instruments, or things to be used or
28 fitted or intended to be used in printing, stamping, or impress-
29 ing any obligation or other security of the United States, shall
30 be imprisoned not more than 25 years.

31 **“§ 698. Possessing or selling impressions of tools**
32 **used for obligations or securities**

33 “Whoever—

34 “(1) with intent to defraud, possesses, keeps, safeguards,
35 or controls, without authority from the United States, any
36 imprint, stamp, analog, digital, or electronic image, or im-
37 pression, taken or made upon any substance or material

1 whatsoever, of any tool, implement, instrument or thing,
2 used, fitted or intended to be used, for any of the purposes
3 mentioned in section 476 of this title; or

4 “(2) with intent to defraud, sells, gives, or delivers any
5 such imprint, stamp, analog, digital, or electronic image, or
6 impression to any other person;

7 shall be imprisoned not more than 25 years.

8 **“§ 699. Foreign obligations or securities**

9 “Whoever, within the United States, with intent to defraud,
10 falsely makes, alters, forges, or counterfeits any bond, certifi-
11 cate, obligation, or other security of any foreign government,
12 purporting to be or in imitation of any such security issued
13 under the authority of such foreign government, or any treas-
14 ury note, bill, or promise to pay, lawfully issued by such foreign
15 government and intended to circulate as money, shall be im-
16 prisoned not more than 20 years.

17 **“§ 700. Uttering counterfeit foreign obligations or**
18 **securities**

19 “Whoever, within the United States, knowingly and with in-
20 tent to defraud, utters, passes, or puts off, in payment or nego-
21 tiation, any false, forged, or counterfeited bond, certificate, ob-
22 ligation, security, treasury note, bill, or promise to pay, men-
23 tioned in section 478 of this title, whether or not the same was
24 made, altered, forged, or counterfeited within the United
25 States, shall be imprisoned not more than 20 years.

26 **“§ 701. Possessing counterfeit foreign obligations**
27 **or securities**

28 “Whoever, within the United States, knowingly and with in-
29 tent to defraud, possesses or delivers any false, forged, or coun-
30 terfeit bond, certificate, obligation, security, treasury note, bill,
31 promise to pay, bank note, or bill issued by a bank or corpora-
32 tion of any foreign country, shall be imprisoned not more than
33 20 years.

34 **“§ 702. Plates, stones, or analog, digital, or elec-**
35 **tronic images for counterfeiting foreign**
36 **obligations or securities**

37 “Whoever—

1 “(1) within the United States except by lawful authority,
2 controls, holds, or possesses any plate, stone, or other
3 thing, or any part thereof, from which has been printed or
4 may be printed any counterfeit note, bond, obligation, or
5 other security, in whole or in part, of any foreign govern-
6 ment, bank, or corporation, or uses such plate, stone, or
7 other thing, or knowingly permits or suffers the same to be
8 used in counterfeiting such foreign obligations, or any part
9 thereof;

10 “(2) except by lawful authority, makes or engraves any
11 plate, stone, or other thing in the likeness or similitude of
12 any plate, stone, or other thing designated for the printing
13 of the genuine issues of the obligations of any foreign gov-
14 ernment, bank, or corporation;

15 “(3) with intent to defraud, makes, executes, acquires,
16 scans, captures, records, receives, transmits, reproduces,
17 sells, or has in such person’s control, custody, or posses-
18 sion, an analog, digital, or electronic image of any bond,
19 certificate, obligation, or other security of any foreign gov-
20 ernment, or of any treasury note, bill, or promise to pay,
21 lawfully issued by such foreign government and intended to
22 circulate as money;

23 “(4) except by lawful authority, prints, photographs, or
24 makes, executes, or sells any engraving, photograph, print,
25 or impression in the likeness of any genuine note, bond, ob-
26 ligation, or other security, or any part thereof, of any for-
27 eign government, bank, or corporation; or

28 “(5) brings into the United States any counterfeit plate,
29 stone, or other thing, engraving, photograph, print, or
30 other impressions of the notes, bonds, obligations, or other
31 securities of any foreign government, bank, or corporation;
32 shall be imprisoned not more than 25 years.

33 **“§ 703. Uttering counterfeit foreign bank notes**

34 “Whoever, within the United States, utters, passes, puts off,
35 or tenders in payment, with intent to defraud, any such false,
36 forged, altered, or counterfeited bank note or bill, mentioned in
37 section 482 of this title, knowing the same to be so false,

1 forged, altered, and counterfeited, whether or not the same was
2 made, forged, altered, or counterfeited within the United
3 States, shall be imprisoned not more than 20 years.

4 **“§ 704. Connecting parts of different notes**

5 “Whoever so places or connects together different parts of
6 two or more notes, bills, or other genuine instruments issued
7 under the authority of the United States, or by any foreign
8 government, or corporation, as to produce one instrument, with
9 intent to defraud, shall be guilty of forgery in the same manner
10 as if the parts so put together were falsely made or forged, and
11 shall be imprisoned not more than 10 years.

12 **“§ 705. Tokens or paper used as money**

13 “(a) OFFENSE.—Whoever—

14 “(1) being 18 years of age or over, not lawfully author-
15 ized, makes, issues, or passes any coin, card, token, or de-
16 vice in metal, or its compounds, intended to be used as
17 money, or whoever, being 18 years of age or over, with in-
18 tent to defraud, makes, utters, inserts, or uses any card,
19 token, slug, disk, device, paper, or other thing similar in
20 size and shape to any of the lawful coins or other currency
21 of the United States or any coin or other currency not legal
22 tender in the United States, to procure anything of value,
23 or the use or enjoyment of any property or service from
24 any automatic merchandise vending machine, postage-
25 stamp machine, turnstile, fare box, coinbox telephone, park-
26 ing meter or other lawful receptacle, depository, or contriv-
27 ance designed to receive or to be operated by lawful coins
28 or other currency of the United States; or

29 “(2) manufactures, sells, offers, or advertises for sale, or
30 exposes or keeps with intent to furnish or sell any token,
31 slug, disk, device, paper, or other thing similar in size and
32 shape to any of the lawful coins or other currency of the
33 United States, or any token, disk, paper, or other device
34 issued or authorized in connection with rationing or food
35 and fiber distribution by any agency of the United States,
36 with knowledge or reason to believe that such tokens, slugs,
37 disks, devices, papers, or other things are intended to be

1 used unlawfully or fraudulently to procure anything of
2 value, or the use or enjoyment of any property or service
3 from any automatic merchandise vending machine, postage-
4 stamp machine, turnstile, fare box, coinbox telephone, park-
5 ing meter, or other lawful receptacle, depository, or contriv-
6 ance designed to receive or to be operated by lawful coins
7 or other currency of the United States;

8 shall be imprisoned not more than one year.

9 “(b) NONPREEMPTION.—Nothing contained in this section
10 shall create immunity from criminal prosecution under the laws
11 of any State.

12 **“§ 706. Forfeiture of counterfeit paraphernalia**

13 “(a) IN GENERAL.—All counterfeits of any coins or obliga-
14 tions or other securities of the United States or of any foreign
15 government, or any articles, devices, and other things made,
16 possessed, or used in violation of this subchapter or of sections
17 851 and 852, or any material or apparatus used or fitted or
18 intended to be used, in the making of such counterfeits, arti-
19 cles, devices or things, found in the possession of any person
20 without authority from the Secretary of the Treasury or other
21 proper officer, shall be forfeited to the United States.

22 “(b) FAILING OR REFUSING TO SURRENDER POSSESSION.—
23 Whoever, having the custody or control of any such counter-
24 feits, material, apparatus, articles, devices, or other things, fails
25 or refuses to surrender possession thereof upon request by any
26 authorized agent of the Treasury Department, or other proper
27 officer, shall be imprisoned not more than one year.

28 “(c) REMISSION OR MITIGATION.—

29 “(1) SECRETARY OF TREASURY.—Whenever, except as
30 hereinafter in this section provided, any person interested
31 in any article, device, or other thing, or material or appa-
32 ratus seized under this section files with the Secretary of
33 the Treasury, before the disposition thereof, a petition for
34 the remission or mitigation of such forfeiture, the Secretary
35 of the Treasury, if he finds that such forfeiture was in-
36 curred without willful negligence or without any intention
37 on the part of the petitioner to violate the law, or finds the

1 existence of such mitigating circumstances as to justify the
 2 remission or the mitigation of such forfeiture, may remit or
 3 mitigate the same upon such terms and conditions as he
 4 deems reasonable and just.

5 “(2) ATTORNEY GENERAL.—If the seizure involves of-
 6 fenses other than offenses against the coinage, currency,
 7 obligations or securities of the United States or any foreign
 8 government, the petition for the remission or mitigation of
 9 forfeiture shall be referred to the Attorney General, who
 10 may remit or mitigate the forfeiture upon such terms as he
 11 deems reasonable and just.

12 **“§ 707. Bonds and obligations of certain lending**
 13 **agencies**

14 “Whoever—

15 “(1) falsely makes, forges, counterfeits or alters any
 16 note, bond, debenture, coupon, obligation, instrument, or
 17 writing in imitation or purporting to be in imitation of, a
 18 note, bond, debenture, coupon, obligation, instrument or
 19 writing, issued by the Reconstruction Finance Corporation,
 20 Federal Deposit Insurance Corporation, National Credit
 21 Union Administration, Home Owners’ Loan Corporation,
 22 Farm Credit Administration, Department of Housing and
 23 Urban Development, or any land bank, intermediate credit
 24 bank, insured credit union, bank for cooperatives or any
 25 lending, mortgage, insurance, credit or savings and loan
 26 corporation or association authorized or acting under the
 27 laws of the United States; or

28 “(2) passes, utters, or publishes, or attempts to pass,
 29 utter or publish any note, bond, debenture, coupon, obliga-
 30 tion, instrument or document knowing the same to have
 31 been falsely made, forged, counterfeited or altered, contrary
 32 to the provisions of this section;

33 shall be imprisoned not more than 10 years.

34 **“§ 708. Contracts, deeds, and powers of attorney**

35 “Whoever—

36 “(1) falsely makes, alters, forges, or counterfeits any
 37 deed, power of attorney, order, certificate, receipt, contract,

1 or other writing, for the purpose of obtaining or receiving,
2 or of enabling any other person, either directly or indi-
3 rectly, to obtain or receive from the United States or any
4 officers or agents thereof, any sum of money;

5 “(2) utters or publishes as true any such false, forged,
6 altered, or counterfeited writing, with intent to defraud the
7 United States, knowing the same to be false, altered,
8 forged, or counterfeited; or

9 “(3) transmits to, or presents at any office or officer of
10 the United States, any such writing in support of, or in re-
11 lation to, any account or claim, with intent to defraud the
12 United States, knowing the same to be false, altered,
13 forged, or counterfeited;

14 shall be imprisoned not more than ten years.

15 **“§ 709. Military or naval discharge certificates**

16 “Whoever forges, counterfeits, or falsely alters any certificate
17 of discharge from the military or naval service of the United
18 States, or uses, unlawfully possesses or exhibits any such cer-
19 tificate, knowing the same to be forged, counterfeited, or falsely
20 altered, shall be imprisoned not more than one year.

21 **“§ 710. Military, naval, or official passes**

22 “Whoever falsely makes, forges, counterfeits, alters, or
23 tampers with any naval, military, or official pass or permit,
24 issued by or under the authority of the United States, or with
25 intent to defraud uses or possesses any such pass or permit,
26 or personates or falsely represents himself to be or not to be
27 a person to whom such pass or permit has been duly issued,
28 or knowingly allows any other person to have or use any such
29 pass or permit, issued for his use alone, shall be imprisoned not
30 more than five years.

31 **“§ 711. Money orders**

32 “Whoever—

33 “(1) with intent to defraud, falsely makes, forges, coun-
34 terfeits, engraves, or prints any order in imitation of or
35 purporting to be a blank money order or a money order
36 issued by or under the direction of the Post Office Depart-
37 ment or Postal Service;

1 “(2) forges or counterfeits the signature or initials of
2 any person authorized to issue money orders upon or to
3 any money order, postal note, or blank therefor provided or
4 issued by or under the direction of the Post Office Depart-
5 ment or Postal Service, or post office department or cor-
6 poration of any foreign country, and payable in the United
7 States, or any material signature or indorsement thereon,
8 or any material signature to any receipt or certificate of
9 identification thereof;

10 “(3) falsely alters, in any material respect, any such
11 money order or postal note;

12 “(4) with intent to defraud, passes, utters or publishes
13 or attempts to pass, utter or publish any such forged or al-
14 tered money order or postal note, knowing any material ini-
15 tials, signature, stamp impression or indorsement thereon
16 to be false, forged, or counterfeited, or any material alter-
17 ation therein to have been falsely made;

18 “(5) issues any money order or postal note without hav-
19 ing previously received or paid the full amount of money
20 payable therefor, with the purpose of fraudulently obtaining
21 or receiving, or fraudulently enabling any other person, ei-
22 ther directly or indirectly, to obtain or receive from the
23 United States or Postal Service, or any officer, employee,
24 or agent thereof, any sum of money whatever;

25 “(6) embezzles, steals, or knowingly converts to his own
26 use or to the use of another, or without authority converts
27 or disposes of any blank money order form provided by or
28 under the authority of the Post Office Department or Post-
29 al Service;

30 “(7) receives or possesses any such money order form
31 with the intent to convert it to his own use or gain or use
32 or gain of another knowing it to have been embezzled, sto-
33 len or converted;

34 “(8) with intent to defraud the United States, the Postal
35 Service, or any person, transmits, presents, or causes to be
36 transmitted or presented, any money order or postal note
37 knowing the same—

1 “(A) to contain any forged or counterfeited signa-
2 ture, initials, or any stamped impression,

3 “(B) to contain any material alteration therein un-
4 lawfully made,

5 “(C) to have been unlawfully issued without previous
6 payment of the amount required to be paid upon such
7 issue, or

8 “(D) to have been stamped without lawful authority;
9 or

10 “(9) steals, or with intent to defraud or without being
11 lawfully authorized by the Post Office Department or Post-
12 al Service, receives, possesses, disposes of or attempts to
13 dispose of any postal money order machine or any stamp,
14 tool, or instrument specifically designed to be used in pre-
15 paring or filling out the blanks on postal money order
16 forms;

17 shall be imprisoned not more than five years.

18 **“§ 712. Postage stamps, postage meter stamps, and**
19 **postal cards**

20 “Whoever—

21 “(1) forges or counterfeits any postage stamp, postage
22 meter stamp, or any stamp printed upon any stamped en-
23 velope, or postal card, or any die, plate, or engraving there-
24 of;

25 “(2) makes or prints, or knowingly uses or sells, or pos-
26 sesses with intent to use or sell, any such forged or coun-
27 terfeited postage stamp, postage meter stamp, stamped en-
28 velope, postal card, die, plate, or engraving;

29 “(3) makes, or knowingly uses or sells, or possesses with
30 intent to use or sell, any paper bearing the watermark of
31 any stamped envelope, or postal card, or any fraudulent
32 imitation thereof;

33 “(4) makes or prints, or authorizes to be made or print-
34 ed, any postage stamp, postage meter stamp, stamped en-
35 velope, or postal card, of the kind authorized and provided
36 by the Post Office Department or by the Postal Service,

1 without the special authority and direction of the Depart-
2 ment or Postal Service; or

3 “(5) after such postage stamp, postage meter stamp,
4 stamped envelope, or postal card has been printed, with in-
5 tent to defraud, delivers the same to any person not au-
6 thorized by an instrument in writing, duly executed under
7 the hand of the Postmaster General and the seal of the
8 Post Office Department or the Postal Service, to receive it;
9 shall be imprisoned not more than five years.

10 **“§ 713. Printing and filming of United States and**
11 **foreign obligations and securities**

12 “Notwithstanding any other provision of this subchapter, the
13 following are permitted:

14 “(1) The printing, publishing, or importation, or the
15 making or importation of the necessary plates for such
16 printing or publishing, of illustrations of—

17 “(A) postage stamps of the United States,

18 “(B) revenue stamps of the United States,

19 “(C) any other obligation or other security of the
20 United States, and

21 “(D) postage stamps, revenue stamps, notes, bonds,
22 and any other obligation or other security of any for-
23 eign government, bank, or corporation.

24 Illustrations permitted by the foregoing provisions of this
25 section shall be made in accordance with the following con-
26 ditions—

27 “(i) all illustrations shall be in black and white, ex-
28 cept that illustrations of postage stamps issued by the
29 United States or by any foreign government and
30 stamps issued under the Migratory Bird Hunting
31 Stamp Act of 1934 may be in color;

32 “(ii) all illustrations (including illustrations of
33 uncanceled postage stamps in color and illustrations of
34 stamps issued under the Migratory Bird Hunting
35 Stamp Act of 1934 in color) shall be of a size less than
36 three-fourths or more than one and one-half, in linear
37 dimension, of each part of any matter so illustrated

1 which is covered by subparagraph (A), (B), (C), or (D)
2 of this paragraph, except that black and white illustra-
3 tions of postage and revenue stamps issued by the
4 United States or by any foreign government and col-
5 ored illustrations of canceled postage stamps issued by
6 the United States may be in the exact linear dimension
7 in which the stamps were issued; and

8 “(iii) the negatives and plates used in making the il-
9 lustrations shall be destroyed after their final use in ac-
10 cordance with this section. The Secretary of the Treas-
11 ury shall prescribe regulations to permit color illustra-
12 tions of such currency of the United States as the Sec-
13 retary determines may be appropriate for such pur-
14 poses.

15 “(2) The provisions of this section shall not permit the
16 reproduction of illustrations of obligations or other securi-
17 ties, by or through electronic methods used for the acquisi-
18 tion, recording, retrieval, transmission, or reproduction of
19 any obligation or other security, unless such use is author-
20 ized by the Secretary of the Treasury. The Secretary shall
21 establish a system to ensure that the legitimate use of such
22 electronic methods and retention of such reproductions by
23 businesses, hobbyists, press or others shall not be unduly
24 restricted.

25 “(3) The making or importation of motion-picture films,
26 microfilms, or slides, for projection upon a screen or for
27 use in telecasting, of postage and revenue stamps and other
28 obligations and securities of the United States, and postage
29 and revenue stamps, notes, bonds, and other obligations or
30 securities of any foreign government, bank, or corporation.
31 No prints or other reproductions shall be made from such
32 films or slides, except for the purposes of paragraph (1),
33 without the permission of the Secretary of the Treasury.
34 For the purposes of this section the term ‘postage stamp’
35 includes postage meter stamps.

1 **“§ 714. Seals of courts; signatures of judges or**
2 **court officers**

3 “Whoever forges the signature of any judge, register, or
4 other officer of any court of the United States, or of any Terri-
5 tory thereof, or forges or counterfeits the seal of any such
6 court, or knowingly concurs in using any such forged or coun-
7 terfeit signature or seal, for the purpose of authenticating any
8 proceeding or document, or tenders in evidence any such pro-
9 ceeding or document with a false or counterfeit signature of
10 any such judge, register, or other officer, or a false or counter-
11 feit seal of the court, subscribed or attached thereto, knowing
12 such signature or seal to be false or counterfeit, shall be im-
13 prisoned not more than five years.

14 **“§ 715. Seals of departments or agencies**

15 “(a) OFFENSE.—Whoever—

16 “(1) falsely makes, forges, counterfeits, mutilates, or al-
17 ters the seal of any department or agency of the United
18 States, or any facsimile thereof;

19 “(2) knowingly uses, affixes, or impresses any such
20 fraudulently made, forged, counterfeited, mutilated, or al-
21 tered seal or facsimile thereof to or upon any certificate,
22 instrument, commission, document, or paper of any de-
23 scription; or

24 “(3) with fraudulent intent, possesses, sells, offers for
25 sale, furnishes, offers to furnish, gives away, offers to give
26 away, transports, offers to transport, imports, or offers to
27 import any such seal or facsimile thereof, knowing the
28 same to have been so falsely made, forged, counterfeited,
29 mutilated, or altered,

30 shall be imprisoned not more than 5 years.

31 “(b) INCREASED PENALTY.—Notwithstanding subsection (a)
32 or any other provision of law, if a forged, counterfeited, mui-
33 lated, or altered seal of a department or agency of the United
34 States, or any facsimile thereof, is—

35 “(1) so forged, counterfeited, mutilated, or altered;

1 “(2) used, affixed, or impressed to or upon any certifi-
 2 cate, instrument, commission, document, or paper of any
 3 description; or

4 “(3) with fraudulent intent, possessed, sold, offered for
 5 sale, furnished, offered to furnish, given away, offered to
 6 give away, transported, offered to transport, imported, or
 7 offered to import,

8 with the intent or effect of facilitating an alien’s application
 9 for, or receipt of, a Federal benefit to which the alien is not
 10 entitled, the penalties which may be imposed for each offense
 11 under subsection (a) shall be two times the maximum fine, and
 12 3 times the maximum term of imprisonment, or both, that
 13 would otherwise be imposed for an offense under subsection
 14 (a).

15 “(c) DEFINITIONS.—For purposes of this section—

16 “(1) the term ‘Federal benefit’ means—

17 “(A) the issuance of any grant, contract, loan, pro-
 18 fessional license, or commercial license provided by any
 19 agency of the United States or by appropriated funds
 20 of the United States; and

21 “(B) any retirement, welfare, Social Security, health
 22 (including treatment of an emergency medical condition
 23 in accordance with section 1903(v) of the Social Secu-
 24 rity Act (19 U.S.C. 1396b(v))), disability, veterans,
 25 public housing, education, food stamps, or unemploy-
 26 ment benefit, or any similar benefit for which payments
 27 or assistance are provided by an agency of the United
 28 States or by appropriated funds of the United States;
 29 and

30 “(2) each instance of forgery, counterfeiting, mutilation,
 31 or alteration shall constitute a separate offense under this
 32 section.

33 **“§ 716. Forging endorsements on Treasury checks**
 34 **or bonds or securities of the United States**

35 “(a) IN GENERAL.—Whoever, with intent to defraud—

1 “(1) falsely makes or forges any endorsement or signa-
2 ture on a Treasury check or bond or security of the United
3 States; or

4 “(2) passes, utters, or publishes, or attempts to pass,
5 utter, or publish, any Treasury check or bond or security
6 of the United States bearing a falsely made or forged en-
7 dorsement or signature;

8 shall be imprisoned not more than ten years.

9 “(b) SALE EXCHANGE AND SIMILAR CONDUCT.—Whoever,
10 with knowledge that such Treasury check or bond or security
11 of the United States is stolen or bears a falsely made or forged
12 endorsement or signature buys, sells, exchanges, receives, deliv-
13 ers, retains, or conceals any such Treasury check or bond or
14 security of the United States shall be imprisoned not more than
15 ten years.

16 “(c) REDUCED PENALTY.—If the face value of the Treasury
17 check or bond or security of the United States or the aggregate
18 face value, if more than one Treasury check or bond or security
19 of the United States, does not exceed \$1,000, in any of the
20 above-mentioned offenses, the penalty shall be imprisonment
21 for not more than one year.

22 **“§ 717. Altering or removing motor vehicle identi-**
23 **fication numbers**

24 “(a) OFFENSE.—Whoever—

25 “(1) knowingly removes, obliterates, tampers with, or al-
26 ters an identification number for a motor vehicle or motor
27 vehicle part; or

28 “(2) with intent to further the theft of a motor vehicle,
29 knowingly removes, obliterates, tampers with, or alters a
30 decal or device affixed to a motor vehicle pursuant to the
31 Motor Vehicle Theft Prevention Act,

32 shall be imprisoned not more than 5 years.

33 “(b) EXCLUSION.—

34 “(1) GENERALLY.—Subsection (a) does not apply to a
35 removal, obliteration, tampering, or alteration by a person
36 specified in paragraph (2) (unless such person knows that
37 the vehicle or part involved is stolen).

1 “(2) PERSONS REFERRED TO IN PARAGRAPH (1).—The
2 persons referred to in paragraph (1) of this subsection
3 are—

4 “(A) a motor vehicle scrap processor or a motor ve-
5 hicle demolisher who complies with applicable State law
6 with respect to such vehicle or part;

7 “(B) a person who repairs such vehicle or part, if the
8 removal, obliteration, tampering, or alteration is rea-
9 sonably necessary for the repair;

10 “(C) a person who restores or replaces an identifica-
11 tion number for such vehicle or part in accordance with
12 applicable State law; and

13 “(D) a person who removes, obliterates, tampers
14 with, or alters a decal or device affixed to a motor vehi-
15 cle pursuant to the Motor Vehicle Theft Prevention
16 Act, if that person is the owner of the motor vehicle,
17 or is authorized to remove, obliterate, tamper with or
18 alter the decal or device by—

19 “(i) the owner or his authorized agent;

20 “(ii) applicable State or local law; or

21 “(iii) regulations promulgated by the Attorney
22 General to implement the Motor Vehicle Theft Pre-
23 vention Act.

24 “(c) DEFINITIONS FOR SECTION.—As used in this section—

25 “(1) the term ‘identification number’ means a number or
26 symbol that is inscribed or affixed for purposes of identi-
27 fication under chapter 301 and part C of subtitle VI of title
28 49;

29 “(2) the term ‘motor vehicle’ has the meaning given that
30 term in section 32101 of title 49;

31 “(3) the term ‘motor vehicle demolisher’ means a person,
32 including any motor vehicle dismantler or motor vehicle re-
33 cycler, who is engaged in the business of reducing motor
34 vehicles or motor vehicle parts to metallic scrap that is un-
35 suitable for use as either a motor vehicle or a motor vehicle
36 part;

1 “(4) the term ‘motor vehicle scrap processor’ means a
2 person—

3 “(A) who is engaged in the business of purchasing
4 motor vehicles or motor vehicle parts for reduction to
5 metallic scrap for recycling;

6 “(B) who, from a fixed location, uses machinery to
7 process metallic scrap into prepared grades; and

8 “(C) whose principal product is metallic scrap for re-
9 cycling;

10 but such term does not include any activity of any such
11 person relating to the recycling of a motor vehicle or a
12 motor vehicle part as a used motor vehicle or a used motor
13 vehicle part; and

14 “(5) the term ‘tampers with’ includes covering a pro-
15 gram decal or device affixed to a motor vehicle pursuant to
16 the Motor Vehicle Theft Prevention Act for the purpose of
17 obstructing its visibility.

18 **“§ 718. Securities of the States and private entities**

19 “(a) COUNTERFEIT SECURITIES.—Whoever makes, utters or
20 possesses a counterfeited security of a State or a political sub-
21 division thereof or of an organization, or whoever makes, utters
22 or possesses a forged security of a State or political subdivision
23 thereof or of an organization that operates in or affecting com-
24 merce, with intent to deceive another person shall be impris-
25 oned for not more than ten years.

26 “(b) IMPLEMENTS.—Whoever makes, receives, possesses,
27 sells or otherwise transfers an implement designed for or par-
28 ticularly suited for making a counterfeit or forged security with
29 the intent that it be so used shall be punished by imprisonment
30 for not more than ten years.

31 “(c) DEFINITIONS.—As used in this section—

32 “(1) the term ‘counterfeited’ means a document that
33 purports to be genuine but is not, because it has been false-
34 ly made or manufactured in its entirety;

35 “(2) the term ‘forged’ means a document that purports
36 to be genuine but is not because it has been falsely altered,
37 completed, signed, or endorsed, or contains a false addition

1 thereto or insertion therein, or is a combination of parts of
 2 two or more genuine documents; and

3 “(3) the term ‘security’ means—

4 “(A) a note, stock certificate, treasury stock certifi-
 5 cate, bond, treasury bond, debenture, certificate of de-
 6 posit, interest coupon, bill, check, draft, warrant, debit
 7 instrument as defined in section 916(c) of the Elec-
 8 tronic Fund Transfer Act, money order, traveler’s
 9 check, letter of credit, warehouse receipt, negotiable bill
 10 of lading, evidence of indebtedness, certificate of inter-
 11 est in or participation in any profit-sharing agreement,
 12 collateral-trust certificate, pre-reorganization certificate
 13 of subscription, transferable share, investment contract,
 14 voting trust certificate, or certificate of interest in tan-
 15 gible or intangible property;

16 “(B) an instrument evidencing ownership of goods,
 17 wares, or merchandise;

18 “(C) any other written instrument commonly known
 19 as a security;

20 “(D) a certificate of interest in, certificate of partici-
 21 pation in, certificate for, receipt for, or warrant or op-
 22 tion or other right to subscribe to or purchase, any of
 23 the foregoing; or

24 “(E) a blank form of any of the foregoing.

25 **“§ 719. Fictitious obligations**

26 “(a) OFFENSE.—Whoever, with the intent to defraud—

27 “(1) draws, prints, processes, produces, publishes, or
 28 otherwise makes, or attempts or causes the same, within
 29 the United States;

30 “(2) passes, utters, presents, offers, brokers, issues, sells,
 31 or attempts or causes the same, or with like intent pos-
 32 sesses, within the United States; or

33 “(3) utilizes interstate or foreign commerce, including
 34 the use of the mails or wire, radio, or other electronic com-
 35 munication, to transmit, transport, ship, move, transfer, or
 36 attempts or causes the same, to, from, or through the
 37 United States,

1 any false or fictitious instrument, document, or other item ap-
 2 pearing, representing, purporting, or contriving through scheme
 3 or artifice, to be an actual security or other financial instru-
 4 ment issued under the authority of the United States, a foreign
 5 government, a State or other political subdivision of the United
 6 States, or an organization, shall be imprisoned for not more
 7 than 25 years.

8 “(b) DEFINITIONS.—For purposes of this section, any term
 9 used in this section that is defined in section 718(c) has the
 10 same meaning given such term in section 718(c).

11 “(c) AUTHORITY OF THE UNITED STATES SECRET SERV-
 12 ICE.—The United States Secret Service, in addition to any
 13 other agency having such authority, shall have authority to in-
 14 vestigate offenses under this section.

15 **“CHAPTER 25—FRAUD AND FALSE STATEMENT**
 16 **CRIMES**

| | |
|---|-------------|
| “Subchapter | Sec. |
| “A. Fraud and false statements | 771 |
| “B. Mail fraud | 801 |

17 **“SUBCHAPTER A—FRAUD AND FALSE STATEMENTS**

- “Sec.
- “771. Definitions.
- “772. Statements or entries generally.
- “773. Bank entries, reports, and transactions.
- “774. Federal credit institution entries, reports and transactions.
- “775. Federal Deposit Insurance Corporation transactions.
- “776. Department of Housing and Urban Development and Federal Hous-
 ing 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 docu-
 ments, 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
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- “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.
- “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 national bank,
4 state bank, or bank or trust company, which has become
5 a member of one of the Federal Reserve banks;

6 “(2) the term ‘insured bank’ includes any state bank,
7 banking association, trust company, savings bank, or other
8 banking institution, the deposits of which are insured by
9 the Federal Deposit Insurance Corporation;

10 “(3) the term ‘branch or agency of a foreign bank’
11 means a branch or agency described in paragraph (E) of
12 the definition of financial institution in section 1 of this
13 title; and

14 “(4) the term ‘depository institution holding company’
15 has the meaning given such term in section 3(w)(1) of the
16 Federal Deposit Insurance Act.

17 **“§ 772. Statements or entries generally**

18 “(a) OFFENSE.—Except as otherwise provided in this sec-
19 tion, whoever, in any matter within the jurisdiction of the exec-
20 utive, legislative, or judicial branch of the Government of the
21 United States, knowingly—

22 “(1) falsifies, conceals, or covers up by any trick,
23 scheme, or device a material fact;

24 “(2) makes any materially false, fictitious, or fraudulent
25 statement or representation; or

26 “(3) makes or uses any false writing or document know-
27 ing the same to contain any materially false, fictitious, or
28 fraudulent statement or entry;

29 shall be imprisoned not more than 5 years or, if the offense in-
30 volves international or domestic terrorism (as defined in section

1 2331), imprisoned not more than 8 years. If the matter relates
 2 to an offense under chapter 13 or section 1265, then the term
 3 of imprisonment imposed under this section shall be not more
 4 than 8 years.

5 “(b) EXCLUSION.—Subsection (a) does not apply to a party
 6 to a judicial proceeding, or that party’s counsel, for statements,
 7 representations, writings or documents submitted by such party
 8 or counsel to a judge or magistrate in that proceeding.

9 “(c) APPLICATION TO MATTERS WITHIN THE JURISDICTION
 10 OF THE LEGISLATIVE BRANCH.—With respect to any matter
 11 within the jurisdiction of the legislative branch, subsection (a)
 12 shall apply only to—

13 “(1) administrative matters, including a claim for pay-
 14 ment, a matter related to the procurement of property or
 15 services, personnel or employment practices, or support
 16 services, or a document required by law, rule, or regulation
 17 to be submitted to the Congress or any office or officer
 18 within the legislative branch; or

19 “(2) any investigation or review, conducted pursuant to
 20 the authority of any committee, subcommittee, commission
 21 or office of the Congress, consistent with applicable rules
 22 of the House or Senate.

23 **“§ 773. Bank entries, reports and transactions**

24 “Whoever—

25 “(1) being an officer, director, agent or employee of any
 26 Federal Reserve bank, member bank, depository institution
 27 holding company, national bank, insured bank, branch or
 28 agency of a foreign bank, or organization operating under
 29 section 25 or section 25(a) of the Federal Reserve Act,
 30 without authority from the directors of such bank, branch,
 31 agency, or organization or company, issues or puts in cir-
 32 culation any notes of such bank, branch, agency, or organi-
 33 zation or company;

34 “(2) without such authority, makes, draws, issues, puts
 35 forth, or assigns any certificate of deposit, draft, order, bill
 36 of exchange, acceptance, note, debenture, bond, or other
 37 obligation, or mortgage, judgment or decree;

1 “(3) makes any false entry in any book, report, or state-
 2 ment of such bank, company, branch, agency, or organiza-
 3 tion with intent to injure or defraud such bank, company,
 4 branch, agency, or organization, or any other company,
 5 body politic or corporate, or any individual person, or to de-
 6 ceive any officer of such bank, company, branch, agency, or
 7 organization, or the Comptroller of the Currency, or the
 8 Federal Deposit Insurance Corporation, or any agent or ex-
 9 aminer appointed to examine the affairs of such bank, com-
 10 pany, branch, agency, or organization, or the Board of
 11 Governors of the Federal Reserve System; or

12 “(4) with intent to defraud the United States or any
 13 agency thereof, or any financial institution referred to in
 14 this section, participates or shares in or receives (directly
 15 or indirectly) any money, profit, property, or benefits
 16 through any transaction, loan, commission, contract, or any
 17 other act of any such financial institution;

18 shall be imprisoned not more than 30 years.

19 **“§ 774. Federal credit institution entries, reports,**
 20 **and transactions**

21 “Whoever, being an officer, agent or employee of or con-
 22 nected in any capacity with the Federal Deposit Insurance Cor-
 23 poration, National Credit Union Administration, Office of
 24 Thrift Supervision, any Federal home loan bank, the Federal
 25 Housing Finance Board, the Resolution Trust Corporation,
 26 Farm Credit Administration, Department of Housing and
 27 Urban Development, Federal Crop Insurance Corporation, the
 28 Secretary of Agriculture acting through the Farmers Home Ad-
 29 ministration or successor agency, the Rural Development Ad-
 30 ministration or successor agency, or the Farm Credit System
 31 Insurance Corporation, a Farm Credit Bank, a bank for co-
 32 operatives or any lending, mortgage, insurance, credit or sav-
 33 ings and loan corporation or association authorized or acting
 34 under the laws of the United States or any institution, other
 35 than an insured bank, the accounts of which are insured by the
 36 Federal Deposit Insurance Corporation, or by the National
 37 Credit Union Administration Board or any small business in-

1 vestment company, with intent to defraud any such institution
2 or any other company, body politic or corporate, or any indi-
3 vidual, or to deceive any officer, auditor, examiner or agent of
4 any such institution or of department or agency of the United
5 States, makes any false entry in any book, report or statement
6 of or to any such institution, or without being duly authorized,
7 draws any order or bill of exchange, makes any acceptance, or
8 issues, puts forth or assigns any note, debenture, bond or other
9 obligation, or draft, bill of exchange, mortgage, judgment, or
10 decree, or, with intent to defraud the United States or any
11 agency thereof, or any corporation, institution, or association
12 referred to in this section, participates or shares in or receives
13 directly or indirectly any money, profit, property, or benefits
14 through any transaction, loan, commission, contract, or any
15 other act of any such corporation, institution, or association,
16 shall be imprisoned not more than 30 years.

17 **“§ 775. Federal Deposit Insurance Corporation**
18 **transactions**

19 “Whoever, for the purpose of influencing in any way the ac-
20 tion of the Federal Deposit Insurance Corporation, knowingly
21 makes or invites reliance on a false, forged, or counterfeit
22 statement, document, or thing shall be imprisoned not more
23 than 30 years.

24 **“§ 776. Department of Housing and Urban Devel-**
25 **opment and Federal Housing Administra-**
26 **tion transactions**

27 “Whoever, for the purpose of obtaining any loan or advance
28 of credit from any person, partnership, association, or corpora-
29 tion with the intent that such loan or advance of credit shall
30 be offered to or accepted by the Department of Housing and
31 Urban Development for insurance, or for the purpose of obtain-
32 ing any extension or renewal of any loan, advance of credit, or
33 mortgage insured by such Department, or the acceptance, re-
34 lease, or substitution of any security on such a loan, advance
35 of credit, or for the purpose of influencing in any way the ac-
36 tion of such Department, makes, passes, utters, or publishes
37 any statement, knowing the same to be false, or alters, forges,

1 or counterfeits any instrument, paper, or document, or utters,
2 publishes, or passes as true any instrument, paper, or docu-
3 ment, knowing it to have been altered, forged, or counterfeited,
4 or knowingly overvalues any security, asset, or income, shall be
5 imprisoned not more than two years.

6 **“§ 777. Department of Housing and Urban Develop-**
7 **ment transactions**

8 “Whoever—

9 “(1) with intent to defraud, makes any false entry in any
10 book of the Department of Housing and Urban Develop-
11 ment or makes any false report or statement to or for such
12 Department;

13 “(2) receives any compensation, rebate, or reward, with
14 intent to defraud such Department or with intent unlaw-
15 fully to defeat its purposes; or

16 “(3) induces or influences such Department to purchase
17 or acquire any property or to enter into any contract and
18 knowingly fails to disclose any interest which that person
19 has in such property or in the property to which such con-
20 tract relates, or any special benefit which he expects to re-
21 ceive as a result of such contract;

22 shall be imprisoned not more than one year.

23 **“§ 778. Farm loan bonds and credit bank debent-**
24 **tures**

25 “Whoever deceives, defrauds, or imposes upon, or attempts
26 to deceive, defraud, or impose upon any person, partnership,
27 corporation, or association by making any false pretense or rep-
28 resentation concerning the character, issue, security, contents,
29 conditions, or terms of any farm loan bond, or coupon, issued
30 by any Federal land bank or banks; or of any debenture, cou-
31 pon, or other obligation, issued by any Federal intermediate
32 credit bank or banks; or by falsely pretending or representing
33 that any farm loan bond, or coupon, is anything other than,
34 or different from, what it purports to be on the face of said
35 bond or coupon, shall be imprisoned not more than one year.

1 **“§ 779. Loan and credit applications generally; re-**
 2 **newals and discounts; crop insurance**

3 “Whoever knowingly makes any false statement or report, or
 4 knowingly overvalues any land, property or security, for the
 5 purpose of influencing in any way the action of the Farm Cred-
 6 it Administration, Federal Crop Insurance Corporation or a
 7 company the Corporation reinsures, the Secretary of Agri-
 8 culture acting through the Farmers Home Administration or
 9 successor agency, the Rural Development Administration or
 10 successor agency, any Farm Credit Bank, production credit as-
 11 sociation, agricultural credit association, bank for cooperatives,
 12 or any division, officer, or employee thereof, or of any regional
 13 agricultural credit corporation established pursuant to law, or
 14 a Federal land bank, a Federal land bank association, a Fed-
 15 eral Reserve bank, a small business investment company, as de-
 16 fined in section 103 of the Small Business Investment Act of
 17 1958, or the Small Business Administration in connection with
 18 any provision of that Act, a Federal credit union, an insured
 19 State-chartered credit union, any institution the accounts of
 20 which are insured by the Federal Deposit Insurance Corpora-
 21 tion, the Office of Thrift Supervision, any Federal home loan
 22 bank, the Federal Housing Finance Board, the Federal Deposit
 23 Insurance Corporation, the Resolution Trust Corporation, the
 24 Farm Credit System Insurance Corporation, or the National
 25 Credit Union Administration Board, a branch or agency of a
 26 foreign bank (as such terms are defined in paragraphs (1) and
 27 (3) of section 1(b) of the International Banking Act of 1978),
 28 or an organization operating under section 25 or section 25(a)
 29 of the Federal Reserve Act, upon any application, advance, dis-
 30 count, purchase, purchase agreement, repurchase agreement,
 31 commitment, or loan, or any change or extension of any of the
 32 same, by renewal, deferment of action or otherwise, or the ac-
 33 ceptance, release, or substitution of security therefor, shall be
 34 imprisoned not more than 30 years.

35 **“§ 780. Naturalization, citizenship, or alien reg-**
 36 **istry**

37 “(a) OFFENSE.—Whoever

1 “(1) knowingly makes any false statement under oath, in
2 any case, proceeding, or matter relating to, or under, or by
3 virtue of any law of the United States relating to natu-
4 ralization, citizenship, or registry of aliens;

5 “(2) knowingly, with intent to avoid any duty or liability
6 imposed or required by law, denies that he has been natu-
7 ralized or admitted to be a citizen, after having been so
8 naturalized or admitted;

9 “(3) uses or attempts to use any certificate of arrival,
10 declaration of intention, certificate of naturalization, certifi-
11 cate of citizenship or other documentary evidence of natu-
12 ralization or of citizenship, or any duplicate or copy there-
13 of, knowing the same to have been procured by fraud or
14 false evidence or without required appearance or hearing of
15 the applicant in court or otherwise unlawfully obtained;

16 “(4) knowingly makes any false certificate, acknowledg-
17 ment or statement concerning the appearance before him or
18 the taking of an oath or affirmation or the signature, attes-
19 tation or execution by any person with respect to any appli-
20 cation, declaration, petition, affidavit, deposition, certificate
21 of naturalization, certificate of citizenship or other paper or
22 writing required or authorized by the laws relating to immi-
23 gration, naturalization, citizenship, or registry of aliens;

24 “(5) knowingly makes any false statement or claim that
25 he is, or at any time has been, a citizen or national of the
26 United States, with the intent to obtain on behalf of him-
27 self, or any other person, any Federal or State benefit or
28 service, or to engage unlawfully in employment in the
29 United States; or

30 “(6) knowingly makes any false statement or claim that
31 he is a citizen of the United States in order to register to
32 vote or to vote in any Federal, State, or local election (in-
33 cluding an initiative, recall, or referendum);

34 shall be imprisoned not more than five years.

35 “(b) EXCLUSION.—Subsection (a)(5) does not apply to an
36 alien if each natural parent of the alien (or, in the case of an
37 adopted alien, each adoptive parent of the alien) is or was a

1 citizen (whether by birth or naturalization), the alien perma-
2 nently resided in the United States prior to attaining the age
3 of 16, and the alien reasonably believed at the time of making
4 the false statement or claim that he or she was a citizen of the
5 United States.

6 **“§ 781. Highway projects**

7 “Whoever—

8 “(1) being an officer, agent, or employee of the United
9 States, or of any State or Territory, or whoever, whether
10 a person, association, firm, or corporation, knowingly
11 makes any false statement, false representation, or false re-
12 port as to the character, quality, quantity, or cost of the
13 material used or to be used, or the quantity or quality of
14 the work performed or to be performed, or the costs thereof
15 in connection with the submission of plans, maps, specifica-
16 tions, contracts, or costs of construction of any highway or
17 related project submitted for approval to the Secretary of
18 Transportation;

19 “(2) knowingly makes any false statement, false rep-
20 resentation, false report, or false claim with respect to the
21 character, quality, quantity, or cost of any work performed
22 or to be performed, or materials furnished or to be fur-
23 nished, in connection with the construction of any highway
24 or related project approved by the Secretary of Transpor-
25 tation; or

26 “(3) knowingly makes any false statement or false rep-
27 resentation as to a material fact in any statement, certifi-
28 cate, or report submitted pursuant to the provisions of the
29 Federal-Aid Road Act approved July 11, 1916 (39 Stat.
30 355), as amended and supplemented;

31 shall be imprisoned not more than five years.

32 **“§ 782. False statements and concealment of facts**
33 **in relation to documents required by the**
34 **Employee Retirement Income Security Act**
35 **of 1974**

36 “Whoever, in any document required by title I of the Em-
37 ployee Retirement Income Security Act of 1974 to be pub-

1 lished, or kept as part of the records of any employee welfare
2 benefit plan or employee pension benefit plan, or certified to
3 the administrator of any such plan, makes any false statement
4 or representation of fact, knowing it to be false, or knowingly
5 conceals, covers up, or fails to disclose any fact the disclosure
6 of which is required by such title or is necessary to verify, ex-
7 plain, clarify or check for accuracy and completeness any report
8 required by such title to be published or any information re-
9 quired by such title to be certified, shall be imprisoned not
10 more than five years.

11 **“§ 783. Fraud and related activity in connection**
12 **with identification documents, authen-**
13 **tication features, and information**

14 “(a) OFFENSE.—Whoever, as made applicable by subsection
15 (c)—

16 “(1) knowingly and without lawful authority produces an
17 identification document, authentication feature, or a false
18 identification document;

19 “(2) knowingly transfers an identification document, au-
20 thentication feature, or a false identification document
21 knowing that such document or feature was stolen or pro-
22 duced without lawful authority;

23 “(3) knowingly possesses with intent to use unlawfully or
24 transfer unlawfully five or more identification documents
25 (other than those issued lawfully for the use of the pos-
26 sessor), authentication features, or false identification docu-
27 ments;

28 “(4) knowingly possesses an identification document
29 (other than one issued lawfully for the use of the pos-
30 sessor), authentication feature, or a false identification doc-
31 ument, with the intent such document or feature be used
32 to defraud the United States;

33 “(5) knowingly produces, transfers, or possesses a docu-
34 ment-making implement or authentication feature with the
35 intent such document-making implement or authentication
36 feature will be used in the production of a false identifica-

1 tion document or another document-making implement or
2 authentication feature which will be so used;

3 “(6) knowingly possesses an identification document or
4 authentication feature that is or appears to be an identi-
5 fication document or authentication feature of the United
6 States or a sponsoring entity of an event designated as a
7 special event of national significance which is stolen or pro-
8 duced without lawful authority knowing that such docu-
9 ment or feature was stolen or produced without such au-
10 thority;

11 “(7) knowingly transfers, possesses, or uses, without law-
12 ful authority, a means of identification of another person
13 with the intent to commit, or to aid or abet, or in connec-
14 tion with, any unlawful activity that constitutes a violation
15 of Federal law, or that constitutes a felony under any ap-
16 plicable State or local law; or

17 “(8) knowingly traffics in false or actual authentication
18 features for use in false identification documents, docu-
19 ment-making implements, or means of identification;

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

21 “(b) PUNISHMENT.—The punishment for an offense under
22 subsection (a) of this section is—

23 “(1) except as provided in paragraphs (3) and (4), a fine
24 under this title or imprisonment for not more than 15
25 years, or both, if the offense is—

26 “(A) the production or transfer of an identification
27 document, authentication feature, or false identification
28 document that is or appears to be—

29 “(i) an identification document or authentication
30 feature issued by or under the authority of the
31 United States; or

32 “(ii) a birth certificate, or a driver’s license or
33 personal identification card;

34 “(B) the production or transfer of more than five
35 identification documents, authentication features, or
36 false identification documents;

1 “(C) an offense under paragraph (5) of such sub-
2 section; or

3 “(D) an offense under paragraph (7) of such sub-
4 section that involves the transfer, possession, or use of
5 1 or more means of identification if, as a result of the
6 offense, any individual committing the offense obtains
7 anything of value aggregating \$1,000 or more during
8 any 1-year period;

9 “(2) except as provided in paragraphs (3) and (4), a fine
10 under this title or imprisonment for not more than 5 years,
11 or both, if the offense is—

12 “(A) any other production, transfer, or use of a
13 means of identification, an identification document, au-
14 thentication feature, or a false identification document;
15 or

16 “(B) an offense under paragraph (3) or (7) of such
17 subsection;

18 “(3) a fine under this title or imprisonment for not more
19 than 20 years, or both, if the offense is committed—

20 “(A) to facilitate a drug trafficking crime (as defined
21 in section 592(a)(2));

22 “(B) in connection with a crime of violence (as de-
23 fined in section 584(c)(3)); or

24 “(C) after a prior conviction under this section be-
25 comes final;

26 “(4) a fine under this title or imprisonment for not more
27 than 30 years, or both, if the offense is committed to facili-
28 tate an act of domestic terrorism (as defined under section
29 283) or an act of international terrorism (as defined in sec-
30 tion 283(1)); and

31 “(5) a fine under this title or imprisonment for not more
32 than one year, or both, in any other case.

33 “(c) APPLICABILITY.—Subsection (a) applies if—

34 “(1) the identification document, authentication feature,
35 or false identification document is or appears to be issued
36 by or under the authority of the United States or a spon-
37 soring entity of an event designated as a special event of

1 national significance or the document-making implement is
2 designed or suited for making such an identification docu-
3 ment, authentication feature, or false identification docu-
4 ment;

5 “(2) the offense is an offense under subsection (a)(4) of
6 this section; or

7 “(3) either—

8 “(A) the production, transfer, possession, or use pro-
9 hibited by this section is in or affects interstate or for-
10 eign commerce, including the transfer of a document by
11 electronic means; or

12 “(B) the means of identification, identification docu-
13 ment, false identification document, or document-mak-
14 ing implement is transported in the mail in the course
15 of the production, transfer, possession, or use prohib-
16 ited by this section.

17 “(d) DEFINITIONS.—In this section and section 784—

18 “(1) the term ‘authentication feature’ means any
19 hologram, watermark, certification, symbol, code, image, se-
20 quence of numbers or letters, or other feature that either
21 individually or in combination with another feature is used
22 by the issuing authority on an identification document, docu-
23 ment-making implement, or means of identification to de-
24 termine if the document is counterfeit, altered, or otherwise
25 falsified;

26 “(2) the term ‘document-making implement’ means any
27 implement, impression, template, computer file, computer
28 disc, electronic device, or computer hardware or software,
29 that is specifically configured or primarily used for making
30 an identification document, a false identification document,
31 or another document-making implement;

32 “(3) the term ‘identification document’ means a docu-
33 ment made or issued by or under the authority of the
34 United States Government, a State, political subdivision of
35 a State, or a sponsoring entity of an event designated as
36 a special event of national significance, a foreign govern-
37 ment, political subdivision of a foreign government, an

1 international governmental or an international quasi-gov-
2 ernmental organization which, when completed with infor-
3 mation concerning a particular individual, is of a type in-
4 tended or commonly accepted for the purpose of identifica-
5 tion of individuals;

6 “(4) the term ‘false identification document’ means a
7 document of a type intended or commonly accepted for the
8 purposes of identification of individuals that—

9 “(A) is not issued by or under the authority of a
10 governmental entity or was issued under the authority
11 of a governmental entity but was subsequently altered
12 for purposes of deceit; and

13 “(B) appears to be issued by or under the authority
14 of the United States Government, a State, a political
15 subdivision of a State, or a sponsoring entity of an
16 event designated as a special event of national signifi-
17 cance, a foreign government, a political subdivision of
18 a foreign government, or an international governmental
19 or quasi-governmental organization;

20 “(5) the term ‘false authentication feature’ means an au-
21 thentication feature that—

22 “(A) is genuine in origin, but, without the authoriza-
23 tion of the issuing authority, has been tampered with
24 or altered for purposes of deceit;

25 “(B) is genuine, but has been distributed, or is in-
26 tended for distribution, without the authorization of the
27 issuing authority and not in connection with a lawfully
28 made identification document, document-making imple-
29 ment, or means of identification to which such authen-
30 tication feature is intended to be affixed or embedded
31 by the respective issuing authority; or

32 “(C) appears to be genuine, but is not;

33 “(6) the term ‘issuing authority’—

34 “(A) means any governmental entity or agency that
35 is authorized to issue identification documents, means
36 of identification, or authentication features; and

1 “(B) includes the United States Government, a
2 State, a political subdivision of a State, or a sponsoring
3 entity of an event designated as a special event of na-
4 tional significance, a foreign government, a political
5 subdivision of a foreign government, or an international
6 government or quasi-governmental organization;

7 “(7) the term ‘means of identification’ means any name
8 or number that may be used, alone or in conjunction with
9 any other information, to identify a specific individual, in-
10 cluding any—

11 “(A) name, social security number, date of birth, of-
12 ficial State or government issued driver’s license or
13 identification number, alien registration number, gov-
14 ernment passport number, employer or taxpayer identi-
15 fication number;

16 “(B) unique biometric data, such as fingerprint,
17 voice print, retina or iris image, or other unique phys-
18 ical representation;

19 “(C) unique electronic identification number, ad-
20 dress, or routing code; or

21 “(D) telecommunication identifying information or
22 access device (as defined in section 1029(e));

23 “(8) the term ‘personal identification card’ means an
24 identification document issued by a State or local govern-
25 ment solely for the purpose of identification;

26 “(9) the term ‘produce’ includes alter, authenticate, or
27 assemble;

28 “(10) the term ‘transfer’ includes selecting an identifica-
29 tion document, false identification document, or document-
30 making implement and placing or directing the placement
31 of such identification document, false identification docu-
32 ment, or document-making implement on an online location
33 where it is available to others;

34 “(11) the term ‘traffic’ means—

35 “(A) to transport, transfer, or otherwise dispose of,
36 to another, as consideration for anything of value; or

1 “(B) to make or obtain control of with intent to so
2 transport, transfer, or otherwise dispose of.

3 “(e) EXCLUSION.—This section does not prohibit any law-
4 fully authorized investigative, protective, or intelligence activity
5 of a law enforcement agency of the United States, a State, or
6 a political subdivision of a State, or of an intelligence agency
7 of the United States, or any activity authorized under chapter
8 224 of this title.

9 “(f) RULE OF CONSTRUCTION.—For purpose of subsection
10 (a)(7), a single identification document or false identification
11 document that contains 1 or more means of identification shall
12 be construed to be 1 means of identification.

13 **“§ 784. Aggravated identity theft**

14 “(a) OFFENSES.—

15 “(1) IN GENERAL.—Whoever, during and in relation to
16 any felony violation enumerated in subsection (c), know-
17 ingly transfers, possesses, or uses, without lawful authority,
18 a means of identification of another person shall, in addi-
19 tion to the punishment provided for such felony, be sen-
20 tenced to a term of imprisonment of 2 years.

21 “(2) TERRORISM OFFENSE.—Whoever, during and in re-
22 lation to any felony violation enumerated in section
23 273(g)(5)(B), knowingly transfers, possesses, or uses, with-
24 out lawful authority, a means of identification of another
25 person or a false identification document shall, in addition
26 to the punishment provided for such felony, be sentenced
27 to a term of imprisonment of 5 years.

28 “(b) CONSECUTIVE SENTENCE.—Notwithstanding any other
29 provision of law—

30 “(1) a court shall not place on probation any person con-
31 victed of a violation of this section;

32 “(2) except as provided in paragraph (4), no term of im-
33 prisonment imposed on a person under this section shall
34 run concurrently with any other term of imprisonment im-
35 posed on the person under any other provision of law, in-
36 cluding any term of imprisonment imposed for the felony

1 during which the means of identification was transferred,
2 possessed, or used;

3 “(3) in determining any term of imprisonment to be im-
4 posed for the felony during which the means of identifica-
5 tion was transferred, possessed, or used, a court shall not
6 in any way reduce the term to be imposed for such crime
7 so as to compensate for, or otherwise take into account,
8 any separate term of imprisonment imposed or to be im-
9 posed for a violation of this section; and

10 “(4) a term of imprisonment imposed on a person for a
11 violation of this section may, in the discretion of the court,
12 run concurrently, in whole or in part, only with another
13 term of imprisonment that is imposed by the court at the
14 same time on that person for an additional violation of this
15 section, provided that such discretion shall be exercised in
16 accordance with any applicable guidelines and policy state-
17 ments issued by the Sentencing Commission pursuant to
18 section 994 of title 28.

19 “(c) DEFINITION.—For purposes of this section, the term
20 ‘felony violation enumerated in subsection (c)’ means any of-
21 fense that is a felony violation of—

22 “(1) section 641 (relating to theft of public money, prop-
23 erty, or rewards), section 644 (relating to theft, embezzle-
24 ment, or misapplication by bank officer or employee), or
25 section 651 (relating to theft from employee benefit plans);

26 “(2) section 1091 (relating to false personation of citi-
27 zenship);

28 “(3) section 582(a)(6) (relating to false statements in
29 connection with the acquisition of a firearm);

30 “(4) any provision contained in this subchapter (relating
31 to fraud and false statements), other than this section or
32 section 783(a)(7);

33 “(5) any provision contained in subchapter B of chapter
34 25 (relating to mail, bank, and wire fraud);

35 “(6) any provision contained in subchapter F of chapter
36 15 (relating to nationality and citizenship);

1 “(7) section 523 of the Gramm-Leach-Bliley Act (15
2 U.S.C. 6823) (relating to obtaining customer information
3 by false pretenses);

4 “(8) section 243 or 266 of the Immigration and Nation-
5 ality Act (8 U.S.C. 1253 and 1306) (relating to knowingly
6 failing to leave the United States after deportation and cre-
7 ating a counterfeit alien registration card);

8 “(9) any provision contained in chapter 8 of title II of
9 the Immigration and Nationality Act (8 U.S.C. 1321 et
10 seq.) (relating to various immigration offenses); or

11 “(10) section 208, 811, 1107(b), 1128B(a), or 1632 of
12 the Social Security Act (42 U.S.C. 408, 1011, 1307(b),
13 1320a-7b(a), and 1383a) (relating to false statements re-
14 lating to programs under the Act).

15 **“§ 785. Fraudulent use of credit card**

16 “(a) OFFENSE.—Whoever—

17 “(1) knowingly in a transaction affecting interstate or
18 foreign commerce, uses or attempts or conspires to use any
19 counterfeit, fictitious, altered, forged, lost, stolen, or fraud-
20 ulently obtained credit card to obtain money, goods, serv-
21 ices, or anything else of value which within any one-year
22 period has a value aggregating \$1,000 or more;

23 “(2) with unlawful intent, transports or attempts or con-
24 spires to transport in interstate or foreign commerce a
25 counterfeit, fictitious, altered, forged, lost, stolen, or fraud-
26 ulently obtained credit card knowing the same to be coun-
27 terfeit, fictitious, altered, forged, lost, stolen, or fraudu-
28 lently obtained;

29 “(3) with unlawful intent, uses any instrumentality of
30 interstate or foreign commerce to sell or transport a coun-
31 terfeit, fictitious, altered, forged, lost, stolen, or fraudu-
32 lently obtained credit card knowing the same to be counter-
33 feit, fictitious, altered, forged, lost, stolen, or fraudulently
34 obtained;

35 “(4) knowingly receives, conceals, uses, or transports
36 money, goods, services, or anything else of value (except
37 tickets for interstate or foreign transportation) which—

1 “(A)(i) within any one-year period has a value aggregating \$1,000 or more; or

2
3 “(ii) has moved in interstate or foreign commerce; and

4
5 “(B) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card;

6
7
8 “(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating \$500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

9
10 “(6) in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating \$1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

11 shall be imprisoned not more than ten years.

12 “(b) DEFINITIONS.—A term used in this section that has a definition for the purposes of the Consumer Credit Protection Act has that same definition for the purposes of this section.

13
14
15 **“§ 786. Fraud and related activity in connection with access devices**

16 “(a) OFFENSE.—Whoever—

17 “(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

18 “(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating \$1,000 or more during that period;

1 “(3) knowingly and with intent to defraud possesses fif-
2 teen or more devices which are counterfeit or unauthorized
3 access devices;

4 “(4) knowingly and with intent to defraud produces,
5 traffics in, has control or custody of, or possesses device-
6 making equipment;

7 “(5) knowingly and with intent to defraud effects trans-
8 actions, with 1 or more access devices issued to another
9 person or persons, to receive payment or any other thing
10 of value during any 1-year period the aggregate value of
11 which is equal to or greater than \$1,000;

12 “(6) without the authorization of the issuer of the access
13 device, knowingly and with intent to defraud solicits a per-
14 son for the purpose of—

15 “(A) offering an access device; or

16 “(B) selling information regarding or an application
17 to obtain an access device;

18 “(7) knowingly and with intent to defraud uses, pro-
19 duces, traffics in, has control or custody of, or possesses a
20 telecommunications instrument that has been modified or
21 altered to obtain unauthorized use of telecommunications
22 services;

23 “(8) knowingly and with intent to defraud uses, pro-
24 duces, traffics in, has control or custody of, or possesses a
25 scanning receiver;

26 “(9) knowingly uses, produces, traffics in, has control or
27 custody of, or possesses hardware or software, knowing it
28 has been configured to insert or modify telecommunication
29 identifying information associated with or contained in a
30 telecommunications instrument so that such instrument
31 may be used to obtain telecommunications service without
32 authorization; or

33 “(10) without the authorization of the credit card system
34 member or its agent, knowingly and with intent to defraud
35 causes or arranges for another person to present to the
36 member or its agent, for payment, 1 or more evidences or
37 records of transactions made by an access device;

1 shall, if the offense affects interstate or foreign commerce, be
2 punished as provided in subsection (c) of this section.

3 “(b) PENALTIES.—The punishment for an offense under
4 subsection (a) is—

5 “(1) in the case of an offense that does not occur after
6 a conviction for another offense under this section—

7 “(A) if the offense is under paragraph (1), (2), (3),
8 (6), (7), or (10) of subsection (a), a fine under this
9 title or imprisonment for not more than 10 years, or
10 both; and

11 “(B) if the offense is under paragraph (4), (5), (8),
12 or (9) of subsection (a), a fine under this title or im-
13 prisonment for not more than 15 years, or both; and

14 “(2) in the case of an offense that occurs after a convic-
15 tion for another offense under this section, a fine under
16 this title or imprisonment for not more than 20 years, or
17 both.

18 “(c) EXTRATERRITORIAL JURISDICTION.—There is
19 extraterritorial jurisdiction over an offense under this sub-
20 section if—

21 “(1) the offense involves an access device issued, owned,
22 managed, or controlled by a financial institution, account
23 issuer, credit card system member, or other entity within
24 the jurisdiction of the United States; and

25 “(2) the person transports, delivers, conveys, transfers to
26 or through, or otherwise stores, secrets, or holds within the
27 jurisdiction of the United States, any article used to assist
28 in the commission of the offense or the proceeds of such
29 offense or property derived therefrom.

30 “(d) AUTHORITY OF UNITED STATES SECRET SERVICE.—
31 The United States Secret Service shall, in addition to any other
32 agency having such authority, have the authority to investigate
33 offenses under this section. Such authority of the United States
34 Secret Service shall be exercised in accordance with an agree-
35 ment which shall be entered into by the Secretary of the Treas-
36 ury and the Attorney General.

1 “(e) OFFICIAL DUTY EXCLUSION.—This section does not
2 prohibit any lawfully authorized investigative, protective, or in-
3 telligence activity of a law enforcement agency of the United
4 States, a State, or a political subdivision of a State, or of an
5 intelligence agency of the United States, or any activity author-
6 ized under chapter 224 of this title.

7 “(f) BUSSINESS EXCLUSION.—It is not a violation of sub-
8 section (a)(9) for an officer, employee, or agent of, or a person
9 engaged in business with, a facilities-based carrier, to engage
10 in conduct (other than trafficking) otherwise prohibited by that
11 subsection for the purpose of protecting the property or legal
12 rights of that carrier, unless such conduct is for the purpose
13 of obtaining telecommunications service provided by another fa-
14 cilities-based carrier without the authorization of such carrier.

15 “(g) AFFIRMATIVE DEFENSE.—In a prosecution for a viola-
16 tion of subsection (a)(9), (other than a violation consisting of
17 producing or trafficking) it is an affirmative defense that the
18 conduct charged was engaged in for research or development in
19 connection with a lawful purpose.

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

21 “(1) the term ‘access device’ means any card, plate, code,
22 account number, electronic serial number, mobile identifica-
23 tion number, personal identification number, or other tele-
24 communications service, equipment, or instrument identi-
25 fier, or other means of account access that can be used,
26 alone or in conjunction with another access device, to ob-
27 tain money, goods, services, or any other thing of value, or
28 that can be used to initiate a transfer of funds (other than
29 a transfer originated solely by paper instrument);

30 “(2) the term ‘counterfeit access device’ means any ac-
31 cess device that is counterfeit, fictitious, altered, or forged,
32 or an identifiable component of an access device or a coun-
33 terfeit access device;

34 “(3) the term ‘unauthorized access device’ means any ac-
35 cess device that is lost, stolen, expired, revoked, canceled,
36 or obtained with intent to defraud;

1 “(4) the term ‘produce’ includes design, alter, authen-
2 ticate, duplicate, or assemble;

3 “(5) the term ‘traffic’ means transfer, or otherwise dis-
4 pose of, to another, or obtain control of with intent to
5 transfer or dispose of;

6 “(6) the term ‘device-making equipment’ means any
7 equipment, mechanism, or impression designed or primarily
8 used for making an access device or a counterfeit access de-
9 vice;

10 “(7) the term ‘credit card system member’ means a fi-
11 nancial institution or other entity that is a member of a
12 credit card system, including an entity, whether affiliated
13 with or identical to the credit card issuer, that is the sole
14 member of a credit card system;

15 “(8) the term ‘scanning receiver’ means a device or ap-
16 paratus that can be used to intercept a wire or electronic
17 communication in violation of chapter 119 or to intercept
18 an electronic serial number, mobile identification number,
19 or other identifier of any telecommunications service, equip-
20 ment, or instrument;

21 “(9) the term ‘telecommunications service’ has the mean-
22 ing given such term in section 3 of title I of the Commu-
23 nications Act of 1934 (47 U.S.C. 153);

24 “(10) the term ‘facilities-based carrier’ means an entity
25 that owns communications transmission facilities, is respon-
26 sible for the operation and maintenance of those facilities,
27 and holds an operating license issued by the Federal Com-
28 munications Commission under the authority of title III of
29 the Communications Act of 1934; and

30 “(11) the term ‘telecommunication identifying informa-
31 tion’ means electronic serial number or any other number
32 or signal that identifies a specific telecommunications in-
33 strument or account, or a specific communication trans-
34 mitted from a telecommunications instrument.

35 **“§ 787. Fraud and related activity in connection**
36 **with computers**

37 “(a) OFFENSE.—Whoever—

1 “(1) having knowingly accessed a computer without au-
2 thorization or exceeding authorized access, and by means of
3 such conduct having obtained information that has been de-
4 termined by the United States Government pursuant to an
5 Executive order or statute to require protection against un-
6 authorized disclosure for reasons of national defense or for-
7 eign relations, or any restricted data, as defined in para-
8 graph y. of section 11 of the Atomic Energy Act of 1954,
9 with reason to believe that such information so obtained
10 could be used to the injury of the United States, or to the
11 advantage of any foreign nation knowingly communicates,
12 delivers, transmits, or causes to be communicated, deliv-
13 ered, or transmitted, or attempts to communicate, deliver,
14 transmit or cause to be communicated, delivered, or trans-
15 mitted the same to any person not entitled to receive it, or
16 knowingly retains the same and fails to deliver it to the of-
17 ficer or employee of the United States entitled to receive
18 it;

19 “(2) intentionally accesses a computer without authoriza-
20 tion or exceeds authorized access, and thereby obtains—

21 “(A) information contained in a financial record of
22 a financial institution, or of a card issuer as defined in
23 section 1602(n) of title 15, or contained in a file of a
24 consumer reporting agency on a consumer, as such
25 terms are defined in the Fair Credit Reporting Act (15
26 U.S.C. 1681 et seq.);

27 “(B) information from any department or agency of
28 the United States; or

29 “(C) information from any protected computer if the
30 conduct involved an interstate or foreign communica-
31 tion;

32 “(3) intentionally, without authorization to access any
33 nonpublic computer of a department or agency of the
34 United States, accesses such a computer of that depart-
35 ment or agency that is exclusively for the use of the Gov-
36 ernment of the United States or, in the case of a computer
37 not exclusively for such use, is used by or for the Govern-

1 ment of the United States and such conduct affects that
2 use by or for the Government of the United States;

3 “(4) knowingly and with intent to defraud, accesses a
4 protected computer without authorization, or exceeds au-
5 thorized access, and by means of such conduct furthers the
6 intended fraud and obtains anything of value, unless the
7 object of the fraud and the thing obtained consists only of
8 the use of the computer and the value of such use is not
9 more than \$5,000 in any 1-year period;

10 “(5)(A)(i) knowingly causes the transmission of a pro-
11 gram, information, code, or command, and as a result of
12 such conduct, intentionally causes damage without author-
13 ization, to a protected computer;

14 “(ii) intentionally accesses a protected computer without
15 authorization, and as a result of such conduct, recklessly
16 causes damage; or

17 “(iii) intentionally accesses a protected computer without
18 authorization, and as a result of such conduct, causes dam-
19 age; and

20 “(B) by conduct described in clause (i), (ii), or (iii) of
21 subparagraph (A), caused (or, in the case of an attempted
22 offense, would, if completed, have caused)—

23 “(i) loss to 1 or more persons during any 1-year pe-
24 riod (and, for purposes of an investigation, prosecution,
25 or other proceeding brought by the United States only,
26 loss resulting from a related course of conduct affecting
27 1 or more other protected computers) aggregating at
28 least \$5,000 in value;

29 “(ii) the modification or impairment, or potential
30 modification or impairment, of the medical examina-
31 tion, diagnosis, treatment, or care of 1 or more individ-
32 uals;

33 “(iii) physical injury to any person;

34 “(iv) a threat to public health or safety; or

35 “(v) damage affecting a computer system used by or
36 for a government entity in furtherance of the adminis-
37 tration of justice, national defense, or national security;

1 “(6) knowingly and with intent to defraud traffics (as
2 defined in section 1029) in any password or similar infor-
3 mation through which a computer may be accessed without
4 authorization, if—

5 “(A) such trafficking affects interstate or foreign
6 commerce; or

7 “(B) such computer is used by or for the Govern-
8 ment of the United States; or

9 “(7) with intent to extort from any person any money or
10 other thing of value, transmits in interstate or foreign com-
11 merce any communication containing any threat to cause
12 damage to a protected computer;

13 shall be punished as provided in subsection (c) of this section.

14 “(b) PUNISHMENT.—The punishment for an offense under
15 subsection (a) or (b) of this section is—

16 “(1)(A) a fine under this title or imprisonment for not
17 more than ten years, or both, in the case of an offense
18 under subsection (a)(1) of this section which does not occur
19 after a conviction for another offense under this section, or
20 an attempt to commit an offense punishable under this
21 subparagraph; and

22 “(B) a fine under this title or imprisonment for not more
23 than twenty years, or both, in the case of an offense under
24 subsection (a)(1) of this section which occurs after a con-
25 viction for another offense under this section, or an at-
26 tempt to commit an offense punishable under this subpara-
27 graph;

28 “(2)(A) except as provided in subparagraph (B), a fine
29 under this title or imprisonment for not more than one
30 year, or both, in the case of an offense under subsection
31 (a)(2), (a)(3), (a)(5)(A)(iii), or (a)(6) of this section which
32 does not occur after a conviction for another offense under
33 this section, or an attempt to commit an offense punishable
34 under this subparagraph;

35 “(B) a fine under this title or imprisonment for not more
36 than 5 years, or both, in the case of an offense under sub-

1 section (a)(2) or an attempt to commit an offense punish-
2 able under this subparagraph, if—

3 “(i) the offense was committed for purposes of com-
4 mercial advantage or private financial gain;

5 “(ii) the offense was committed in furtherance of any
6 criminal or tortious act in violation of the Constitution
7 or laws of the United States or of any State; or

8 “(iii) the value of the information obtained exceeds
9 \$5,000; and

10 “(C) a fine under this title or imprisonment for not more
11 than ten years, or both, in the case of an offense under
12 subsection (a)(2), (a)(3) or (a)(6) of this section which oc-
13 curs after a conviction for another offense under such sub-
14 section, or an attempt to commit an offense punishable
15 under this subparagraph;

16 “(3)(A) a fine under this title or imprisonment for not
17 more than five years, or both, in the case of an offense
18 under subsection (a)(4) or (a)(7) of this section which does
19 not occur after a conviction for another offense under this
20 section, or an attempt to commit an offense punishable
21 under this subparagraph; and

22 “(B) a fine under this title or imprisonment for not more
23 than ten years, or both, in the case of an offense under
24 subsection (a)(4), (a)(5)(A)(iii), or (a)(7) of this section
25 which occurs after a conviction for another offense under
26 this section, or an attempt to commit an offense punishable
27 under this subparagraph;

28 “(4)(A) except as provided in paragraph (5), a fine
29 under this title, imprisonment for not more than 10 years,
30 or both, in the case of an offense under subsection
31 (a)(5)(A)(i), or an attempt to commit an offense punishable
32 under that subsection;

33 “(B) a fine under this title, imprisonment for not more
34 than 5 years, or both, in the case of an offense under sub-
35 section (a)(5)(A)(ii), or an attempt to commit an offense
36 punishable under that subsection; and

1 “(C) except as provided in paragraph (5), a fine under
2 this title, imprisonment for not more than 20 years, or
3 both, in the case of an offense under subsection
4 (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an
5 offense punishable under either subsection, that occurs
6 after a conviction for another offense under this section;
7 and

8 “(5)(A) if the offender knowingly or recklessly causes or
9 attempts to cause serious bodily injury from conduct in vio-
10 lation of subsection (a)(5)(A)(i), a fine under this title or
11 imprisonment for not more than 20 years, or both; and

12 “(B) if the offender knowingly or recklessly causes or at-
13 tempts to cause death from conduct in violation of sub-
14 section (a)(5)(A)(i), a fine under this title or imprisonment
15 for any term of years or for life, or both.

16 “(c) INVESTIGATIVE AUTHORITY.—

17 “(1) UNITED STATES SECRET SERVICE.—The United
18 States Secret Service shall, in addition to any other agency
19 having such authority, have the authority to investigate of-
20 fenses under this section.

21 “(2) FEDERAL BUREAU OF INVESTIGATION.—The Fed-
22 eral Bureau of Investigation shall have primary authority
23 to investigate offenses under subsection (a)(1) for any
24 cases involving espionage, foreign counterintelligence, infor-
25 mation protected against unauthorized disclosure for rea-
26 sons of national defense or foreign relations, or Restricted
27 Data (as that term is defined in section 11y of the Atomic
28 Energy Act of 1954 (42 U.S.C. 2014(y)), except for of-
29 fenses affecting the duties of the United States Secret
30 Service pursuant to section 3056(a) of this title.

31 “(3) AGREEMENT.—Such authority shall be exercised in
32 accordance with an agreement which shall be entered into
33 by the Secretary of the Treasury and the Attorney General.

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

35 “(1) the term ‘computer’ means an electronic, magnetic,
36 optical, electrochemical, or other high speed data processing
37 device performing logical, arithmetic, or storage functions,

1 and includes any data storage facility or communications
2 facility directly related to or operating in conjunction with
3 such device, but such term does not include an automated
4 typewriter or typesetter, a portable hand held calculator, or
5 other similar device;

6 “(2) the term ‘protected computer’ means a computer—

7 “(A) exclusively for the use of a financial institution
8 or the United States Government, or, in the case of a
9 computer not exclusively for such use, used by or for
10 a financial institution or the United States Government
11 and the conduct constituting the offense affects that
12 use by or for the financial institution or the Govern-
13 ment; or

14 “(B) which is used in interstate or foreign commerce
15 or communication, including a computer located outside
16 the United States that is used in a manner that affects
17 interstate or foreign commerce or communication of the
18 United States;

19 “(3) the term ‘financial record’ means information de-
20 rived from any record held by a financial institution per-
21 taining to a customer’s relationship with the financial insti-
22 tution;

23 “(4) the term ‘exceeds authorized access’ means to ac-
24 cess a computer with authorization and to use such access
25 to obtain or alter information in the computer that the
26 accesser is not entitled so to obtain or alter;

27 “(5) the term ‘department of the United States’ means
28 the legislative or judicial branch of the Government or one
29 of the executive departments enumerated in section 101 of
30 title 5;

31 “(6) the term ‘damage’ means any impairment to the in-
32 tegrity or availability of data, a program, a system, or in-
33 formation;

34 “(7) the term ‘government entity’ includes the Govern-
35 ment of the United States, any State or political subdivi-
36 sion of the United States, any foreign country, and any

1 state, province, municipality, or other political subdivision
2 of a foreign country;

3 “(8) the term ‘conviction’ shall include a conviction
4 under the law of any State for a crime punishable by im-
5 prisonment for more than 1 year, an element of which is
6 unauthorized access, or exceeding authorized access, to a
7 computer; and

8 “(9) the term ‘loss’ means any reasonable cost to any
9 victim, including the cost of responding to an offense, con-
10 ducting a damage assessment, and restoring the data, pro-
11 gram, system, or information to its condition prior to the
12 offense, and any revenue lost, cost incurred, or other con-
13 sequential damages incurred because of interruption of
14 service.

15 “(e) EXCLUSION.—This section does not prohibit any law-
16 fully authorized investigative, protective, or intelligence activity
17 of a law enforcement agency of the United States, a State, or
18 a political subdivision of a State, or of an intelligence agency
19 of the United States.

20 “(f) CIVIL ACTION.—Whoever suffers damage or loss by rea-
21 son of a violation of this section may maintain a civil action
22 against the violator to obtain compensatory damages and in-
23 junctive relief or other equitable relief. A civil action for a viola-
24 tion of this section may be brought only if the conduct involves
25 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of
26 subsection (a)(5)(B). Damages for a violation involving only
27 conduct described in subsection (a)(5)(B)(i) are limited to eco-
28 nomic damages.. No action may be brought under this sub-
29 section unless such action is begun within 2 years of the date
30 of the act complained of or the date of the discovery of the
31 damage. No action may be brought under this subsection for
32 the negligent design or manufacture of computer hardware,
33 computer software, or firmware.

34 **“§ 788. Major fraud against the United States**

35 “(a) OFFENSE.—Whoever knowingly executes, or attempts to
36 execute, any scheme or artifice with the intent—

37 “(1) to defraud the United States; or

1 “(2) to obtain money or property by means of false or
2 fraudulent pretenses, representations, or promises,
3 in any procurement of property or services as a prime con-
4 tractor with the United States or as a subcontractor or supplier
5 on a contract in which there is a prime contract with the
6 United States, if the value of the contract, subcontract, or any
7 constituent part thereof, for such property or services is
8 \$1,000,000 or more shall, subject to the applicability of sub-
9 section (c) of this section, be imprisoned not more than 10
10 years.

11 “(b) INCREASED FINE.—The fine imposed for an offense
12 under this section may exceed the maximum otherwise provided
13 by law, if such fine does not exceed \$5,000,000 and—

14 “(1) the gross loss to the Government or the gross gain
15 to a defendant is \$500,000 or greater; or

16 “(2) the offense involves a conscious or reckless risk of
17 serious personal injury.

18 “(c) INCREASED FINE ON MULTIPLE COUNTS.—The max-
19 imum fine imposed upon a defendant for a prosecution includ-
20 ing a prosecution with multiple counts under this section shall
21 not exceed \$10,000,000.

22 “(d) DISCLAIMER.—Nothing in this section shall preclude a
23 court from imposing any other sentences available under this
24 title, including a fine up to twice the amount of the gross loss
25 or gross gain involved in the offense pursuant to section
26 3571(d).

27 “(e) LIMITATION.—A prosecution of an offense under this
28 section may be commenced any time not later than 7 years
29 after the offense is committed, plus any additional time other-
30 wise allowed by law.

31 “(f) WHISTLEBLOWER.—Any individual who—

32 “(1) is discharged, demoted, suspended, threatened, har-
33 assed, or in any other manner discriminated against in the
34 terms and conditions of employment by an employer be-
35 cause of lawful acts done by the employee on behalf of the
36 employee or others in furtherance of a prosecution under

1 this section (including investigation for, initiation of, testi-
2 mony for, or assistance in such prosecution), and

3 “(2) was not a participant in the unlawful activity that
4 is the subject of such prosecution;

5 may, in a civil action, obtain all relief necessary to make such
6 individual whole. Such relief shall include reinstatement with
7 the same seniority status such individual would have had but
8 for the discrimination, 2 times the amount of back pay, interest
9 on the back pay, and compensation for any special damages
10 sustained as a result of the discrimination, including litigation
11 costs and reasonable attorney’s fees.

12 **“§ 789. Concealment of assets from conservator,
13 receiver, or liquidating agent of financial
14 institution**

15 “Whoever—

16 “(1) knowingly conceals an asset or property from the
17 Federal Deposit Insurance Corporation, acting as conser-
18 vator or receiver or in the Corporation’s corporate capacity
19 with respect to any asset acquired or liability assumed by
20 the Corporation under section 11, 12, or 13 of the Federal
21 Deposit Insurance Act, the Resolution Trust Corporation,
22 any conservator appointed by the Comptroller of the Cur-
23 rency or the Director of the Office of Thrift Supervision,
24 or the National Credit Union Administration Board, acting
25 as conservator or liquidating agent;

26 “(2) corruptly impedes the functions of such Corpora-
27 tion, Board, or conservator; or

28 “(3) corruptly places an asset or property beyond the
29 reach of such Corporation, Board, or conservator,

30 shall be imprisoned not more than 5 years.

31 **“§ 790. Crimes by or affecting persons engaged in
32 the business of insurance whose activities
33 affect interstate commerce**

34 “(a) FALSE STATEMENT OFFENSE.—(1) Whoever is engaged
35 in the business of insurance whose activities affect interstate
36 commerce and knowingly, with the intent to deceive, makes any

1 false material statement or report or knowingly and materially
2 overvalues any land, property or security—

3 “(A) in connection with any financial reports or docu-
4 ments presented to any insurance regulatory official or
5 agency or an agent or examiner appointed by such official
6 or agency to examine the affairs of such person, and

7 “(B) for the purpose of influencing the actions of such
8 official or agency or such an appointed agent or examiner,
9 shall be punished as provided in paragraph (2).

10 “(2) The punishment for an offense under paragraph (1) is
11 a fine as established under this title or imprisonment for not
12 more than 10 years, or both, except that the term of imprison-
13 ment shall be not more than 15 years if the statement or re-
14 port or overvaluing of land, property, or security jeopardized
15 the safety and soundness of an insurer and was a significant
16 cause of such insurer being placed in conservation, rehabilita-
17 tion, or liquidation by an appropriate court.

18 “(b) EMBEZZLEMENT AND SIMILAR CONDUCT.—(1) Who-
19 ever—

20 “(A) acting as, or being an officer, director, agent, or
21 employee of, any person engaged in the business of insur-
22 ance whose activities affect interstate commerce, or

23 “(B) is engaged in the business of insurance whose ac-
24 tivities affect interstate commerce or is involved (other than
25 as an insured or beneficiary under a policy of insurance)
26 in a transaction relating to the conduct of affairs of such
27 a business,

28 knowingly embezzles, abstracts, purloins, or misappropriates
29 any of the moneys, funds, premiums, credits, or other property
30 of such person so engaged shall be punished as provided in
31 paragraph (2).

32 “(2) The punishment for an offense under paragraph (1) is
33 a fine as provided under this title or imprisonment for not
34 more than 10 years, or both, except that if such embezzlement,
35 abstraction, purloining, or misappropriation described in para-
36 graph (1) jeopardized the safety and soundness of an insurer
37 and was a significant cause of such insurer being placed in con-

1 servation, rehabilitation, or liquidation by an appropriate court,
2 such imprisonment shall be not more than 15 years. If the
3 amount or value so embezzled, abstracted, purloined, or mis-
4 appropriated does not exceed \$5,000, whoever violates para-
5 graph (1) shall be imprisoned not more than one year.

6 “(c) FALSE ENTRIES.—(1) Whoever is engaged in the busi-
7 ness of insurance and whose activities affect interstate com-
8 merce or is involved (other than as an insured or beneficiary
9 under a policy of insurance) in a transaction relating to the
10 conduct of affairs of such a business, knowingly makes any
11 false entry of material fact in any book, report, or statement
12 of such person engaged in the business of insurance with intent
13 to deceive any person, including any officer, employee, or agent
14 of such person engaged in the business of insurance, any insur-
15 ance regulatory official or agency, or any agent or examiner ap-
16 pointed by such official or agency to examine the affairs of
17 such person, about the financial condition or solvency of such
18 business shall be punished as provided in paragraph (2).

19 “(2) The punishment for an offense under paragraph (1) is
20 a fine as provided under this title or imprisonment for not
21 more than 10 years, or both, except that if the false entry in
22 any book, report, or statement of such person jeopardized the
23 safety and soundness of an insurer and was a significant cause
24 of such insurer being placed in conservation, rehabilitation, or
25 liquidation by an appropriate court, such imprisonment shall be
26 not more than 15 years.

27 “(d) OBSTRUCTION.—Whoever, by threats or force or by any
28 threatening letter or communication, corruptly influences, ob-
29 structs, or impedes or endeavors corruptly to influence, ob-
30 struct, or impede the due and proper administration of the law
31 under which any proceeding involving the business of insurance
32 whose activities affect interstate commerce is pending before
33 any insurance regulatory official or agency or any agent or ex-
34 aminer appointed by such official or agency to examine the af-
35 fairs of a person engaged in the business of insurance whose
36 activities affect interstate commerce, shall be imprisoned not
37 more than 10 years.

1 “(e) DISQUALIFICATION FOR INSURANCE BUSINESS.—(1)(A)
 2 Any individual who has been convicted of any criminal felony
 3 involving dishonesty or a breach of trust, or who has been con-
 4 victed of an offense under this section, and who knowingly en-
 5 engages in the business of insurance whose activities affect inter-
 6 state commerce or participates in such business, shall be im-
 7 prisoned not more than 5 years.

8 “(B) Any individual who is engaged in the business of insur-
 9 ance whose activities affect interstate commerce and who know-
 10 ingly permits the participation described in subparagraph (A)
 11 shall be imprisoned not more than 5 years.

12 “(2) A person described in paragraph (1)(A) may engage in
 13 the business of insurance or participate in such business if such
 14 person has the written consent of any insurance regulatory offi-
 15 cial authorized to regulate the insurer, which consent specifi-
 16 cally 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 incidental to
 22 such writing or reinsuring and the activities of persons who
 23 act as, or are, officers, directors, agents, or employees of
 24 insurers or who are other persons authorized to act on be-
 25 half of such persons;

26 “(2) the term ‘insurer’ means any entity the business ac-
 27 tivity of which is the writing of insurance or the reinsuring
 28 of risks, and includes any person who acts as, or is, an offi-
 29 cer, director, agent, or employee of that business;

30 **“§ 791. Civil penalties and injunctions for viola-**
 31 **tions of section 790**

32 “(a) CIVIL PENALTY.—The Attorney General may bring a
 33 civil action in the appropriate United States district court
 34 against any person who engages in conduct constituting an of-
 35 fense under section 790 and, upon proof of such conduct by a
 36 preponderance of the evidence, such person shall be subject to
 37 a civil penalty of not more than \$50,000 for each violation or

1 the amount of compensation which the person received or of-
2 ferred for the prohibited conduct, whichever amount is greater.
3 If the offense has contributed to the decision of a court of ap-
4 propriate jurisdiction to issue an order directing the conserva-
5 tion, rehabilitation, or liquidation of an insurer, such penalty
6 shall be remitted to the appropriate regulatory official for the
7 benefit of the policyholders, claimants, and creditors of such in-
8 surer. The imposition of a civil penalty under this subsection
9 does not preclude any other criminal or civil statutory, common
10 law, or administrative remedy, which is available by law to the
11 United States or any other person.

12 “(b) ORDER PROHIBITING.—If the Attorney General has
13 reason to believe that a person is engaged in conduct consti-
14 tuting an offense under section 790, the Attorney General may
15 petition an appropriate United States district court for an
16 order prohibiting that person from engaging in such conduct.
17 The court may issue an order prohibiting that person from en-
18 gaging in such conduct if the court finds that the conduct con-
19 stitutes such an offense. The filing of a petition under this sec-
20 tion does not preclude any other remedy which is available by
21 law to the United States or any other person.

22 **“§ 792. False statements relating to health care**
23 **matters**

24 “Whoever, in any matter involving a health care benefit pro-
25 gram, knowingly—

26 “(1) falsifies, conceals, or covers up by any trick,
27 scheme, or device a material fact; or

28 “(2) makes any materially false, fictitious, or fraudulent
29 statements or representations, or makes or uses any mate-
30 rially false writing or document knowing the same to con-
31 tain any materially false, fictitious, or fraudulent statement
32 or entry, in connection with the delivery of or payment for
33 health care benefits, items, or services, shall be imprisoned
34 not more than 5 years.

1 **“§ 793. Entry by false pretenses to any real prop-**
2 **erty, vessel, or aircraft of the United**
3 **States or secure area of any airport or**
4 **seaport**

5 “(a) OFFENSE.—Whoever, by any fraud or false pretense,
6 enters—

7 “(1) any real property belonging in whole or in part to,
8 or leased by, the United States;

9 “(2) any vessel or aircraft belonging in whole or in part
10 to, or leased by, the United States;

11 “(3) any secure or restricted area of any seaport, des-
12 ignated as secure in an approved security plan, as required
13 under section 70103 of title 46 and the rules and regula-
14 tions promulgated under that section; or

15 “(4) any secure area of any airport, shall be punished as
16 provided in subsection (b).

17 “(b) The punishment for an offense under subsection (a)
18 is—

19 “(1) imprisonment for not more than 10 years, if the of-
20 fense is committed with the intent to commit a felony; or

21 “(2) imprisonment for not more than 6 months, in any
22 other case.

23 “(c) As used in this section—

24 “(1) the term ‘secure area’ means an area access to
25 which is restricted by the airport authority, captain of the
26 seaport, or a public agency; and

27 “(2) the term ‘airport’ has the meaning given such term
28 in section 47102 of title 49.

29 **“§ 794. Fraud and related activity in connection**
30 **with electronic mail**

31 “(a) IN GENERAL.—Whoever, in or affecting interstate or
32 foreign commerce, knowingly—

33 “(1) accesses a protected computer without authoriza-
34 tion, and intentionally initiates the transmission of multiple
35 commercial electronic mail messages from or through such
36 computer,

1 “(2) uses a protected computer to relay or retransmit
2 multiple commercial electronic mail messages, with the in-
3 tent to deceive or mislead recipients, or any Internet access
4 service, as to the origin of such messages,

5 “(3) materially falsifies header information in multiple
6 commercial electronic mail messages and intentionally initi-
7 ates the transmission of such messages,

8 “(4) registers, using information that materially falsifies
9 the identity of the actual registrant, for five or more elec-
10 tronic mail accounts or online user accounts or two or more
11 domain names, and intentionally initiates the transmission
12 of multiple commercial electronic mail messages from any
13 combination of such accounts or domain names, or

14 “(5) falsely represents oneself to be the registrant or the
15 legitimate successor in interest to the registrant of 5 or
16 more Internet Protocol addresses, and intentionally initi-
17 ates the transmission of multiple commercial electronic mail
18 messages from such addresses, or conspires to do so, shall
19 be punished as provided in subsection (b).

20 “(b) PENALTIES.—The punishment for an offense under
21 subsection (a) is—

22 “(1) a fine under this title, imprisonment for not more
23 than 5 years, or both, if—

24 “(A) the offense is committed in furtherance of any
25 felony under the laws of the United States or of any
26 State; or

27 “(B) the defendant has previously been convicted
28 under this section or section 1030, or under the law of
29 any State for conduct involving the transmission of
30 multiple commercial electronic mail messages or unau-
31 thorized access to a computer system;

32 “(2) a fine under this title, imprisonment for not more
33 than 3 years, or both, if—

34 “(A) the offense is an offense under subsection
35 (a)(1);

36 “(B) the offense is an offense under subsection
37 (a)(4) and involved 20 or more falsified electronic mail

1 or online user account registrations, or 10 or more fal-
2 sified domain name registrations;

3 “(C) the volume of electronic mail messages trans-
4 mitted in furtherance of the offense exceeded 2,500
5 during any 24-hour period, 25,000 during any 30-day
6 period, or 250,000 during any 1-year period;

7 “(D) the offense caused loss to one or more persons
8 aggregating \$5,000 or more in value during any 1-year
9 period;

10 “(E) as a result of the offense any individual com-
11 mitting the offense obtained anything of value aggre-
12 gating \$5,000 or more during any 1-year period; or

13 “(F) the offense was undertaken by the defendant in
14 concert with three or more other persons with respect
15 to whom the defendant occupied a position of organizer
16 or leader; and

17 “(3) a fine under this title or imprisonment for not more
18 than 1 year, or both, in any other case.

19 “(c) DEFINITIONS.—For the purposes of this section—

20 “(1) the term ‘loss’ has the meaning given that term in
21 section 787;

22 “(2) for purposes of paragraphs (3) and (4) of sub-
23 section (a), header information or registration information
24 is materially falsified if it is altered or concealed in a man-
25 ner that would impair the ability of a recipient of the mes-
26 sage, an Internet access service processing the message on
27 behalf of a recipient, a person alleging a violation of this
28 section, or a law enforcement agency to identify, locate, or
29 respond to a person who initiated the electronic mail mes-
30 sage or to investigate the alleged violation;

31 “(3) the term ‘multiple’ means more than 100 electronic
32 mail messages during a 24-hour period, more than 1,000
33 electronic mail messages during a 30-day period, or more
34 than 10,000 electronic mail messages during a 1-year pe-
35 riod; and

36 “(4) any other term has the meaning given that term by
37 section 3 of the CAN-SPAM Act of 2003.

“§ 795. False information and hoaxes

“(a) CRIMINAL VIOLATION.—

“(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of subchapter A of chapter 33 and subchapters B, D, E, and F of chapter 21, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall—

“(A) be imprisoned not more than 5 years;

“(B) if serious bodily injury results, be imprisoned not more than 20 years; and

“(C) if death results, be imprisoned for any number of years up to life.

“(2) ARMED FORCES.—Any person who makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged—

“(A) shall be imprisoned not more than 5 years;

“(B) if serious bodily injury results, shall be imprisoned not more than 20 years; and

“(C) if death results, shall be imprisoned for any number of years or for life.

“(b) CIVIL ACTION.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of subchapter A of chapter 33 and subchapters B, D, E, and F of chapter 21, section 236 of the Atomic Energy Act of

1 1954 (42 U.S.C. 2284), or section 46502, the second sentence
2 of section 46504, section 46505 (b)(3) or (c), section 46506 if
3 homicide or attempted homicide is involved, or section
4 60123(b) of title 49 is liable in a civil action to any party in-
5 ccurring expenses incident to any emergency or investigative re-
6 sponse to that conduct, for those expenses.

7 “(c) REIMBURSEMENT.—

8 “(1) IN GENERAL.—The court, in imposing a sentence
9 on a defendant who has been convicted of an offense under
10 subsection (a), shall order the defendant to reimburse any
11 state or local government, or private not-for-profit organi-
12 zation that provides fire or rescue service incurring ex-
13 penses incident to any emergency or investigative response
14 to that conduct, for those expenses.

15 “(2) LIABILITY.—A person ordered to make reimburse-
16 ment under this subsection shall be jointly and severally
17 liable for such expenses with each other person, if any, who
18 is ordered to make reimbursement under this subsection for
19 the same expenses.

20 “(3) CIVIL JUDGMENT.—An order of reimbursement
21 under this subsection shall, for the purposes of enforce-
22 ment, be treated as a civil judgment.

23 “(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does
24 not prohibit any lawfully authorized investigative, protective, or
25 intelligence activity of a law enforcement agency of the United
26 States, a State, or political subdivision of a State, or of an in-
27 telligence agency of the United States.

28 **“§ 796. Fraud and related activity in connection**
29 **with obtaining confidential phone records**
30 **information of a covered entity**

31 “(a) CRIMINAL VIOLATION.—Whoever, in interstate or for-
32 eign commerce, knowingly and intentionally obtains, or at-
33 tempts to obtain, confidential phone records information of a
34 covered entity, by—

35 “(1) making false or fraudulent statements or represen-
36 tations to an employee of a covered entity;

1 “(2) making such false or fraudulent statements or rep-
2 resentations to a customer of a covered entity;

3 “(3) providing a document to a covered entity knowing
4 that such document is false or fraudulent; or

5 “(4) accessing customer accounts of a covered entity via
6 the Internet, or by means of conduct that violates section
7 1030 of this title, without prior authorization from the cus-
8 tomer to whom such confidential phone records information
9 relates;

10 shall be fined under this title, imprisoned for not more than 10
11 years, or both.

12 “(b) PROHIBITION ON SALE OR TRANSFER OF CONFIDEN-
13 TIAL PHONE RECORDS INFORMATION.—

14 “(1) Except as otherwise permitted by applicable law,
15 whoever, in interstate or foreign commerce, knowingly and
16 intentionally sells or transfers, or attempts to sell or trans-
17 fer, confidential phone records information of a covered en-
18 tity, without prior authorization from the customer to
19 whom such confidential phone records information relates,
20 or knowing or having reason to know such information was
21 obtained fraudulently, shall be fined under this title, im-
22 prisoned not more than 10 years, or both.

23 “(2) For purposes of this subsection, the exceptions
24 specified in section 222(d) of the Communications Act of
25 1934 shall apply for the use of confidential phone records
26 information by any covered entity, as defined in subsection
27 (h).

28 “(c) PROHIBITION ON PURCHASE OR RECEIPT OF CON-
29 FIDENTIAL PHONE RECORDS INFORMATION.—

30 “(1) Except as otherwise permitted by applicable law,
31 whoever, in interstate or foreign commerce, knowingly and
32 intentionally purchases or receives, or attempts to purchase
33 or receive, confidential phone records information of a cov-
34 ered entity, without prior authorization from the customer
35 to whom such confidential phone records information re-
36 lates, or knowing or having reason to know such informa-

1 tion was obtained fraudulently, shall be fined under this
2 title, imprisoned not more than 10 years, or both.

3 “(2) For purposes of this subsection, the exceptions
4 specified in section 222(d) of the Communications Act of
5 1934 shall apply for the use of confidential phone records
6 information by any covered entity, as defined in subsection
7 (h).

8 “(d) ENHANCED PENALTIES FOR AGGRAVATED CASES.—
9 Whoever violates, or attempts to violate, subsection (a), (b), or
10 (c) while violating another law of the United States or as part
11 of a pattern of any illegal activity involving more than
12 \$100,000, or more than 50 customers of a covered entity, in
13 a 12-month period shall, in addition to the penalties provided
14 for in such subsection, be fined twice the amount provided in
15 subsection (b)(3) or (c)(3) (as the case may be) of section 3571
16 of this title, imprisoned for not more than 5 years, or both.

17 “(e) ENHANCED PENALTIES FOR USE OF INFORMATION IN
18 FURTHERANCE OF CERTAIN CRIMINAL OFFENSES.—

19 “(1) Whoever, violates, or attempts to violate, subsection
20 (a), (b), or (c) knowing that such information may be used
21 in furtherance of, or with the intent to commit, an offense
22 described in section 2261, 2261A, 2262, or any other crime
23 of violence shall, in addition to the penalties provided for
24 in such subsection, be fined under this title and imprisoned
25 not more than 5 years.

26 “(2) Whoever, violates, or attempts to violate, subsection
27 (a), (b), or (c) knowing that such information may be used
28 in furtherance of, or with the intent to commit, an offense
29 under section 111, 115, 1114, 1503, 1512, 1513, or to in-
30 timidate, threaten, harass, injure, or kill any Federal,
31 State, or local law enforcement officer shall, in addition to
32 the penalties provided for in such subsection, be fined
33 under this title and imprisoned not more than 5 years.

34 “(f) EXTRATERRITORIAL JURISDICTION.—There is
35 extraterritorial jurisdiction over an offense under this section.

36 “(g) NONAPPLICABILITY TO LAW ENFORCEMENT AGEN-
37 CIES.—This section does not prohibit any lawfully authorized

1 investigative, protective, or intelligence activity of a law en-
2 forcement agency of the United States, a State, or political
3 subdivision of a State, or of an intelligence agency of the
4 United States.

5 “(h) DEFINITIONS.—In this section:

6 “(1) CONFIDENTIAL PHONE RECORDS INFORMATION.—

7 The term ‘confidential phone records information’ means
8 information that—

9 “(A) relates to the quantity, technical configuration,
10 type, destination, location, or amount of use of a serv-
11 ice offered by a covered entity, subscribed to by any
12 customer of that covered entity, and kept by or on be-
13 half of that covered entity solely by virtue of the rela-
14 tionship between that covered entity and the customer;

15 “(B) is made available to a covered entity by a cus-
16 tomer solely by virtue of the relationship between that
17 covered entity and the customer; or

18 “(C) is contained in any bill, itemization, or account
19 statement provided to a customer by or on behalf of a
20 covered entity solely by virtue of the relationship be-
21 tween that covered entity and the customer.

22 “(2) COVERED ENTITY.—The term ‘covered entity’—

23 “(A) has the same meaning given the term ‘tele-
24 communications carrier’ in section 3 of the Commu-
25 nications Act of 1934 (47 U.S.C. 153); and

26 “(B) includes any provider of IP-enabled voice serv-
27 ice.

28 “(3) CUSTOMER.—The term ‘customer’ means, with re-
29 spect to a covered entity, any individual, partnership, asso-
30 ciation, joint stock company, trust, or corporation, or au-
31 thorized representative of such customer, to whom the cov-
32 ered entity provides a product or service.

33 “(4) IP-ENABLED VOICE SERVICE.—The term ‘IP-en-
34 abled voice service’ means the provision of real-time voice
35 communications offered to the public, or such class of users
36 as to be effectively available to the public, transmitted
37 through customer premises equipment using TCP/IP pro-

1 tocol, or a successor protocol, (whether part of a bundle of
 2 services or separately) with interconnection capability such
 3 that the service can originate traffic to, or terminate traffic
 4 from, the public switched telephone network, or a successor
 5 network.

6 “SUBCHAPTER B—MAIL FRAUD

“Sec.

“801. Frauds and swindles.

“802. Fictitious name or address.

“803. Fraud by wire, radio, or television.

“804. Bank fraud.

“805. Definition of ‘scheme or artifice to defraud’.

“806. Health care fraud.

“807. Securities fraud.

“808. Failure of corporate officers to certify financial reports.

7 **“§ 801. Frauds and swindles**

8 “Whoever, having devised or intending to devise any scheme
 9 or artifice to defraud, or for obtaining money or property by
 10 means of false or fraudulent pretenses, representations, or
 11 promises, or to sell, dispose of, loan, exchange, alter, give away,
 12 distribute, supply, or furnish or procure for unlawful use any
 13 counterfeit or spurious coin, obligation, security, or other arti-
 14 cle, or anything represented to be or intimated or held out to
 15 be such counterfeit or spurious article, for the purpose of exe-
 16 cuting such scheme or artifice or attempting so to do, places
 17 in any post office or authorized depository for mail matter, any
 18 matter or thing whatever to be sent or delivered by the Postal
 19 Service, or deposits or causes to be deposited any matter or
 20 thing whatever to be sent or delivered by any private or com-
 21 mercial interstate carrier, or takes or receives therefrom, any
 22 such matter or thing, or knowingly causes to be delivered by
 23 mail or such carrier according to the direction thereon, or at
 24 the place at which it is directed to be delivered by the person
 25 to whom it is addressed, any such matter or thing, shall be im-
 26 prisoned not more than 20 years. If the violation affects a fi-
 27 nancial institution, such person shall be imprisoned not more
 28 than 30 years.

“§ 802. Fictitious name or address

“Whoever, for the purpose of conducting, promoting, or carrying on by means of the Postal Service, any scheme or device mentioned in section 801 or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his or her own proper name, shall be imprisoned not more than five years.

“§ 803. Fraud by wire, radio, or television

“Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be imprisoned not more than 20 years. If the violation affects a financial institution, such person shall be imprisoned not more than 30 years.

“§ 804. Bank fraud

“Whoever knowingly executes, a scheme or artifice—
 “(1) to defraud a financial institution; or
 “(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;
shall be imprisoned not more than 30 years.

“§ 805. Definition of ‘scheme or artifice to defraud’

“For the purposes of this subchapter, the term ‘scheme or artifice to defraud’ includes a scheme or artifice to deprive another of the intangible right of honest services.

“§ 806. Health care fraud

“Whoever knowingly executes a scheme or artifice—

1 “(1) to defraud any health care benefit program; or
2 “(2) to obtain, by means of false or fraudulent pretenses,
3 representations, or promises, any of the money or property
4 owned by, or under the custody or control of, any health
5 care benefit program;
6 in connection with the delivery of or payment for health care
7 benefits, items, or services, shall be imprisoned not more than
8 10 years. If the violation results in serious bodily injury (as de-
9 fined in section 1204 of this title), such person shall be impris-
10 oned not more than 20 years; and if the violation results in
11 death, such person shall be imprisoned for any term of years
12 or for life.

13 **“§ 807. Securities fraud**

14 “Whoever knowingly executes a scheme or artifice—
15 “(1) to defraud any person in connection with any secu-
16 rity of an issuer with a class of securities registered under
17 section 12 of the Securities Exchange Act of 1934 or that
18 is required to file reports under section 15(d) of the Securi-
19 ties Exchange Act of 1934; or
20 “(2) to obtain, by means of false or fraudulent pretenses,
21 representations, or promises, any money or property in con-
22 nection with the purchase or sale of any security of an
23 issuer with a class of securities registered under section 12
24 of the Securities Exchange Act of 1934 or that is required
25 to file reports under section 15(d) of the Securities Ex-
26 change Act of 1934;
27 shall be imprisoned not more than 25 years.

28 **“§ 808. Failure of corporate officers to certify fi-**
29 **nancial reports**

30 “(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—
31 Each periodic report containing financial statements filed by an
32 issuer with the Securities Exchange Commission pursuant to
33 section 13(a) or 15(d) of the Securities Exchange Act of 1934
34 shall be accompanied by a written statement by the chief execu-
35 tive officer and chief financial officer (or equivalent thereof) of
36 the issuer.

1 “(b) CONTENT.—The statement required under subsection
 2 (a) shall certify that the periodic report containing the financial
 3 statements fully complies with the requirements of section
 4 13(a) or 15(d) of the Securities Exchange Act of 1934 and
 5 that information contained in the periodic report fairly pre-
 6 sents, in all material respects, the financial condition and re-
 7 sults of operations of the issuer.

8 “(c) CRIMINAL PENALTIES.—Whoever knowingly—
 9 “(1) certifies any statement as set forth in subsections
 10 (a) and (b) knowing that the periodic report accompanying
 11 the statement does not comport with all the requirements
 12 set forth in this section shall be imprisoned not more than
 13 10 years; or
 14 “(2) certifies any statement as set forth in subsections
 15 (a) and (b) knowing that the periodic report accompanying
 16 the statement does not comport with all the requirements
 17 set forth in this section
 18 shall be imprisoned not more than 20 years.

19 **“CHAPTER 27—CRIMES RELATED TO FEDERAL**
 20 **GOVERNMENT RESPONSIBILITIES**

| “Subchapter | Sec. |
|---|-------------|
| “A. Coins and currency | 851 |
| “B. Customs | 861 |
| “C. Indians | 871 |
| “D. Bankruptcy | 881 |
| “E. Civil rights | 891 |
| “F. Foreign relations | 921 |
| “G. Postal service | 941 |
| “H. Special maritime and territorial jurisdiction of the United States | 961 |

21 **“SUBTITLE A—COINS AND CURRENCY**

“Sec.
 “851. Mutilation, diminution, and falsification of coins.
 “852. Mutilation of national bank obligations.

22 **“§ 851. Mutilation, diminution, and falsification of**
 23 **coins**

24 “Whoever—
 25 “(1) fraudulently alters, defaces, mutilates, impairs, di-
 26 minishes, falsifies, scales, or lightens any of the coins
 27 coined at the mints of the United States, or any foreign

1 coins which are by law made current or are in actual use
2 or circulation as money within the United States; or

3 “(2) fraudulently possesses, passes, utters, publishes, or
4 sells, or attempts to pass, utter, publish, or sell, or brings
5 into the United States, any such coin, knowing the same
6 to be altered, defaced, mutilated, impaired, diminished, fal-
7 sified, scaled, or lightened;

8 shall be imprisoned not more than five years.

9 **“§ 852. Mutilation of national bank obligations**

10 “Whoever mutilates, cuts, defaces, disfigures, or perforates,
11 or unites or cements together, or does any other thing to any
12 bank bill, draft, note, or other evidence of debt issued by any
13 national banking association, or Federal Reserve bank, or the
14 Federal Reserve System, with intent to render such bank bill,
15 draft, note, or other evidence of debt unfit to be reissued, shall
16 be imprisoned not more than six months.

17 “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 mo-
bile equipment, vessels, or aircraft.

“867. Smuggling goods from the United States.

“868. Border tunnels and passages.

18 **“§ 861. Entry of goods falsely classified**

19 “Whoever knowingly effects any entry of goods, wares, or
20 merchandise, at less than the true weight or measure thereof,
21 or upon a false classification as to quality or value, or by the
22 payment of less than the amount of duty legally due, shall be
23 imprisoned not more than two years.

24 **“§ 862. Entry of goods by means of false state-
25 ments**

26 “(a) OFFENSE.—Whoever—

27 “(1) enters or introduces, or attempts to enter or intro-
28 duce, into the commerce of the United States any imported
29 merchandise by means of any fraudulent or false invoice,
30 declaration, affidavit, letter, paper, or by means of any

1 false statement, written or verbal, or by means of any false
 2 or fraudulent practice or appliance, or makes any false
 3 statement in any declaration without reasonable cause to
 4 believe the truth of such statement, or procures the making
 5 of any such false statement as to any matter material
 6 thereto without reasonable cause to believe the truth of
 7 such statement, whether or not the United States shall or
 8 may be deprived of any lawful duties; or

9 “(2) knowingly engages in an act or omission whereby
 10 the United States is or may be deprived of any lawful du-
 11 ties accruing upon merchandise embraced or referred to in
 12 such invoice, declaration, affidavit, letter, paper, or state-
 13 ment, or affected by such act or omission;

14 shall be imprisoned not more than two years.

15 “(b) DEFINITION.—As used in this section, the term ‘com-
 16 merce of the United States’ does not include commerce with
 17 Virgin Islands, American Samoa, Wake Island, Midway Islands,
 18 Kingman Reef, Johnston Island, or Guam.

19 **“§ 863. Smuggling goods into the United States**

20 “(a) OFFENSE.—Whoever—

21 “(1) knowingly and with intent to defraud the United
 22 States, smuggles, or clandestinely introduces or attempts to
 23 smuggle or clandestinely introduce into the United States
 24 any merchandise which should have been invoiced, or
 25 makes out or passes, or attempts to pass, through the cus-
 26 tomhouse any false, forged, or fraudulent invoice, or other
 27 document or paper; or

28 “(2) fraudulently or knowingly imports or brings into the
 29 United States, any merchandise contrary to law, or re-
 30 ceives, conceals, buys, sells, or in any manner facilitates the
 31 transportation, concealment, or sale of such merchandise
 32 after importation, knowing the same to have been imported
 33 or brought into the United States contrary to law;

34 shall be imprisoned not more than 20 years.

35 “(b) DEFINITION.—The term ‘United States’, as used in this
 36 section, does not include Virgin Islands, American Samoa,

1 Wake Island, Midway Islands, Kingman Reef, Johnston Island,
2 or Guam.

3 **“§ 864. Smuggling goods into foreign countries**

4 “(a) OFFENSE.—Whoever, owning in whole or in part any
5 vessel of the United States, employs, or participates in, or al-
6 lows the employment of, such vessel for the purpose of smug-
7 gling, or attempting to smuggle, or assisting in smuggling, any
8 merchandise into the territory of any foreign government in
9 violation of the laws there in force, if under the laws of such
10 foreign government any penalty or forfeiture is provided for
11 violation of the laws of the United States respecting the cus-
12 toms revenue, and any citizen of, or person domiciled in, or any
13 corporation incorporated in, the United States, controlling or
14 substantially participating in the control of any such vessel, di-
15 rectly or indirectly, whether through ownership of corporate
16 shares or otherwise, and allowing the employment of said vessel
17 for any such purpose, and any person found, or discovered to
18 have been, on board of any such vessel so employed and partici-
19 pating or assisting in any such purpose, shall be imprisoned not
20 more than two years.

21 “(b) HIRING OR CHARTERING OF VESSELS.—It shall con-
22 stitute an offense under this section to hire out or charter a
23 vessel if the lessor or charterer has knowledge or reasonable
24 grounds for belief that the lessee or person chartering the ves-
25 sel intends to employ such vessel for any of the purposes de-
26 scribed in this section and if such vessel is, during the time
27 such lease or charter is in effect, employed for any such pur-
28 pose.

29 **“§ 865. Removing goods from customs custody;
30 breaking seals**

31 “Whoever knowingly—

32 “(1) without authority, affixes or attaches a customs
33 seal, fastening, or mark, or any seal, fastening, or mark
34 purporting to be a customs seal, fastening, or mark to any
35 vessel, vehicle, warehouse, or package;

36 “(2) without authority, removes, breaks, injures, or de-
37 faces any customs seal or other fastening or mark placed

1 upon any vessel, vehicle, warehouse, or package containing
2 merchandise or baggage in bond or in customs custody;

3 “(3) enters any bonded warehouse or any vessel or vehi-
4 cle laden with or containing bonded merchandise with in-
5 tent unlawfully to remove therefrom any merchandise or
6 baggage therein, or unlawfully removes any merchandise or
7 baggage in such vessel, vehicle, or bonded warehouse or
8 otherwise in customs custody or control; or

9 “(4) receives or transports any merchandise or baggage
10 unlawfully removed from any such vessel, vehicle, or ware-
11 house, knowing the same to have been unlawfully removed;
12 shall be imprisoned not more than 10 years.

13 **“§ 866. Importation or exportation of stolen motor**
14 **vehicles, off-highway mobile equipment,**
15 **vessels, or aircraft**

16 “(a) OFFENSE.—Whoever knowingly imports, exports, or at-
17 tempts to import or export—

18 “(1) any motor vehicle, off-highway mobile equipment,
19 vessel, aircraft, or part of any motor vehicle, off-highway
20 mobile equipment, vessel, or aircraft, knowing the same to
21 have been stolen; or

22 “(2) any motor vehicle or off-highway mobile equipment
23 or part of any motor vehicle or off-highway mobile equip-
24 ment, knowing that the identification number of such
25 motor vehicle, equipment, or part has been removed, oblit-
26 erated, tampered with, or altered;
27 shall be imprisoned not more than 10 years.

28 “(b) EXCLUSION.—Subsection (a)(2) does not apply if the
29 removal, obliteration, tampering, or alteration—

30 “(1) is caused by collision or fire; or

31 “(2)(A) in the case of a motor vehicle, is not a violation
32 of section 718 of this title (relating to altering or removing
33 motor vehicle identification numbers); or

34 “(B) in the case of off-highway mobile equipment, would
35 not be a violation of section 718 of this title if such equip-
36 ment were a motor vehicle.

37 “(c) DEFINITIONS.—As used in this section—

1 “(1) the term ‘motor vehicle’ has the meaning given that
2 term in section 32101 of title 49;

3 “(2) the term ‘off-highway mobile equipment’ means any
4 self-propelled agricultural equipment, self-propelled con-
5 struction equipment, and self-propelled special use equip-
6 ment, used or designed for running on land but not on rail
7 or highway;

8 “(3) the term ‘vessel’ has the meaning given that term
9 in section 401 of the Tariff Act of 1930;

10 “(4) the term ‘aircraft’ has the meaning given that term
11 in section 40102(a) of title 49; and

12 “(5) the term ‘identification number’—

13 “(A) in the case of a motor vehicle, has the meaning
14 given that term in section 718 of this title; and

15 “(B) in the case of any other vehicle or equipment
16 covered by this section, means a number or symbol as-
17 signed to the vehicle or equipment, or part thereof, by
18 the manufacturer primarily for the purpose of identi-
19 fying such vehicle, equipment, or part.

20 **“§ 867. Smuggling goods from the United States**

21 “(a) OFFENSE.—Whoever fraudulently or knowingly exports
22 or sends from the United States any merchandise, article, or
23 object contrary to any law or regulation of the United States,
24 or receives, conceals, buys, sells, or in any manner facilitates
25 the transportation, concealment, or sale of such merchandise,
26 article or object, prior to exportation, knowing the same to be
27 intended for exportation contrary to any law or regulation of
28 the United States, shall be imprisoned not more than 10 years.

29 “(b) DEFINITION.—As used in this section, the term ‘United
30 States’ has the meaning given that term in section 863.

31 **“§ 868. Border tunnels and passages**

32 “(a) CONSTRUCTION.—Whoever knowingly constructs or fi-
33 nances the construction of a tunnel or subterranean passage
34 that crosses the international border between the United States
35 and another country, other than a lawfully authorized tunnel
36 or passage known to the Secretary of Homeland Security and

1 subject to inspection by Immigration and Customs Enforce-
2 ment, shall be imprisoned for not more than 20 years.

3 “(b) DISREGARDING CONSTRUCTION.—Whoever knows or
4 recklessly disregards the construction or use of a tunnel or pas-
5 sage described in subsection (a) on land that the person owns
6 or controls shall be imprisoned for not more than 10 years.

7 “(c) USE.—

8 “(1) OFFENSE.—Whoever uses a tunnel or passage de-
9 scribed in subsection (a) to unlawfully smuggle an alien,
10 goods (in violation of section 863), controlled substances,
11 weapons of mass destruction (including biological weapons),
12 or a member of a terrorist organization shall be subject to
13 a maximum term of imprisonment that is twice the max-
14 imum term of imprisonment that would have otherwise
15 been applicable had the unlawful activity not made use of
16 such a tunnel or passage.

17 “(2) DEFINITION.—As used in this subsection, the term
18 ‘terrorist organization’ means an organization designated
19 as a terrorist organization under section 219 of the Immi-
20 gration 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.

22 “§ 871. Indian country defined

23 “The term ‘Indian country’, as used in this subchapter,
24 means—

25 “(1) all land within the limits of any Indian reservation
26 under the jurisdiction of the United States Government,
27 notwithstanding the issuance of any patent, and, including
28 rights-of-way running through the reservation;

1 “(2) all dependent Indian communities within the bor-
2 ders of the United States whether within the original or
3 subsequently acquired territory thereof, and whether within
4 or without the limits of a state; and

5 “(3) all Indian allotments, the Indian titles to which
6 have not been extinguished, including rights-of-way running
7 through the same.

8 **“§ 872. Laws governing**

9 “(a) **GENERALLY.**—Except as otherwise expressly provided
10 by law, the general laws of the United States as to the punish-
11 ment of offenses committed in any place within the sole and
12 exclusive jurisdiction of the United States, except the District
13 of Columbia, shall extend to the Indian country.

14 “(b) **LIMITATION.**—This section does not extend to offenses
15 committed by one Indian against the person or property of an-
16 other Indian, nor to any Indian committing any offense in the
17 Indian country who has been punished by the local law of the
18 tribe, or to any case where, by treaty stipulations, the exclusive
19 jurisdiction over such offenses is or may be secured to the In-
20 dian tribes respectively.

21 **“§ 873. Offenses committed within Indian country**

22 “(a) **MAJOR CRIMES.**—Any Indian who commits against the
23 person or property of another Indian or other person any of the
24 following offenses, namely, murder, manslaughter, kidnapping,
25 maiming, a felony under subchapter A of chapter 13, incest, as-
26 sault with intent to commit murder, assault with a dangerous
27 weapon, assault resulting in serious bodily injury (as defined in
28 section 1365 of this title), an assault against an individual who
29 has not attained the age of 16 years, arson, burglary, robbery,
30 and a felony under section 661 of this title within the Indian
31 country, shall be subject to the same law and penalties as all
32 other persons committing any of the above offenses, within the
33 exclusive jurisdiction of the United States.

34 “(b) **DEFINITION OF CERTAIN OFFENSES.**—Any offense re-
35 ferred to in subsection (a) of this section that is not defined
36 and punished by Federal law in force within the exclusive juris-
37 diction of the United States shall be defined and punished in

1 accordance with the laws of the State in which such offense
2 was committed as are in force at the time of such offense.

3 **“§ 874. State jurisdiction over offenses committed**
4 **by or against Indians in the Indian coun-**
5 **try**

6 “(a) IN GENERAL.—Each State listed in the following table
7 shall have jurisdiction over offenses committed by or against
8 Indians in the areas of Indian country listed opposite the name
9 of the State to the same extent that such State has jurisdiction
10 over offenses committed elsewhere within the State, and the
11 criminal laws of such State shall have the same force and effect
12 within such Indian country as they have elsewhere within the
13 State:

| State or Territory of | Indian country affected |
|-----------------------|--|
| Alaska | All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended. |
| California | All Indian country within the State. |
| Minnesota | All Indian country within the State, except the Red Lake Reservation. |
| Nebraska | All Indian country within the State. |
| Oregon | All Indian country within the State, except the Warm Springs Reservation. |
| Wisconsin | All Indian country within the State. |

14 “(b) NON-CRIMINAL MATTERS NOT AFFECTED.—Nothing in
15 this section—

16 “(1) authorizes the alienation, encumbrance, or taxation
17 of any real or personal property, including water rights, be-
18 longing to any Indian or any Indian tribe, band, or commu-
19 nity that is held in trust by the United States or is subject
20 to a restriction against alienation imposed by the United
21 States;

1 **“§ 877. Theft by officers or employees of gaming**
 2 **establishments on Indian lands**

3 “Whoever, being an officer, employee, or individual licensee
 4 of a gaming establishment operated by or for or licensed by an
 5 Indian tribe pursuant to an ordinance or resolution approved
 6 by the National Indian Gaming Commission, embezzles, ab-
 7 stracts, purloins, willfully misapplies, or takes and carries away
 8 with intent to steal, any moneys, funds, assets, or other prop-
 9 erty of such establishment shall be imprisoned for not more
 10 than 20 years, but if the value of such property is \$1,000 or
 11 less shall be imprisoned not more than five years.

12 **“§ 878. Reporting of child abuse**

13 “(a) BASIC REPORTING OFFENSE.—Whoever—

14 “(1) is a—

15 “(A) physician, surgeon, dentist, podiatrist, chiro-
 16 practor, nurse, dental hygienist, optometrist, medical
 17 examiner, emergency medical technician, paramedic, or
 18 health care provider,

19 “(B) teacher, school counselor, instructional aide,
 20 teacher’s aide, teacher’s assistant, or bus driver em-
 21 ployed by any tribal, Federal, public or private school,

22 “(C) administrative officer, supervisor of child wel-
 23 fare and attendance, or truancy officer of any tribal,
 24 Federal, public or private school,

25 “(D) child day care worker, headstart teacher, public
 26 assistance worker, worker in a group home or residen-
 27 tial or day care facility, or social worker,

28 “(E) psychiatrist, psychologist, or psychological as-
 29 sistant,

30 “(F) licensed or unlicensed marriage, family, or child
 31 counselor,

32 “(G) person employed in the mental health profes-
 33 sion, or

34 “(H) law enforcement officer, probation officer,
 35 worker in a juvenile rehabilitation or detention facility,
 36 or person employed in a public agency who is respon-
 37 sible for enforcing statutes and judicial orders;

1 “(2) knows, or has reasonable suspicion, that—
2 “(A) a child was abused in Indian country, or
3 “(B) actions are being taken, or are going to be
4 taken, that would reasonably be expected to result in
5 abuse of a child in Indian country; and
6 “(3) fails to immediately report such abuse or actions de-
7 scribed in paragraph (2) to the local child protective serv-
8 ices agency or local law enforcement agency,
9 shall be imprisoned for not more than 6 months.

10 “(b) OFFENSE BY SUPERVISORS.—Any person who—
11 “(1) supervises, or has authority over, a person described
12 in subsection (a)(1), and
13 “(2) inhibits or prevents that person from making the re-
14 port 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 evidence of skin
20 bruising, bleeding, malnutrition, failure to thrive,
21 burns, fracture of any bone, subdural hematoma,
22 soft tissue swelling, and
23 “(ii) such condition is not justifiably explained or
24 may not be the product of an accidental occurrence;
25 and
26 “(B) any case in which a child is subjected to sexual
27 assault, sexual molestation, sexual exploitation, sexual
28 contact, or prostitution;
29 “(2) the term ‘child’ means an individual who—
30 “(A) is not married, and
31 “(B) has not attained 18 years of age;
32 “(3) the term ‘local child protective services agency’
33 means that agency of the Federal Government, of a State,
34 or of an Indian tribe that has the primary responsibility for
35 child protection on any Indian reservation or within any
36 community in Indian country; and

1 “(4) the term ‘local law enforcement agency’ means that
 2 Federal, tribal, or State law enforcement agency that has
 3 the primary responsibility for the investigation of an in-
 4 stance of alleged child abuse within the portion of Indian
 5 country involved.

6 “(d) IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR
 7 REPORTING.—Any person making a report described in sub-
 8 section (a) which is based upon their reasonable belief and
 9 which is made in good faith shall be immune from civil or
 10 criminal liability for making that report.

11 **“§ 879. Illegal trafficking in Native American**
 12 **human remains and cultural items**

13 “(a) HUMAN REMAINS.—Whoever knowingly sells, pur-
 14 chases, uses for profit, or transports for sale or profit, the
 15 human remains of a Native American without the right of pos-
 16 session to those remains as provided in the Native American
 17 Graves Protection and Repatriation Act shall be imprisoned not
 18 more than 12 months, and in the case of a second or subse-
 19 quent violation, be imprisoned not more than 5 years.

20 “(b) CULTURAL ITEMS.—Whoever knowingly sells, pur-
 21 chases, uses for profit, or transports for sale or profit any Na-
 22 tive American cultural items obtained in violation of the Native
 23 American Grave Protection and Repatriation Act shall be im-
 24 prisoned not more than one year, and in the case of a second
 25 or subsequent violation, be imprisoned not more than 5 years.

26 “SUBCHAPTER D—BANKRUPTCY

“Sec.

“881. Concealment of assets; false oaths and claims; bribery.

“882. Embezzlement against estate.

“883. Adverse interest and conduct of officers.

“884. Fee agreements in cases under title 11 and receiverships.

“885. Bankruptcy fraud.

“886. Designation of United States attorneys and agents of the Federal
 Bureau of Investigation to address abusive reaffirmations of debt
 and materially fraudulent statements in bankruptcy schedules.

“887. Definition.

27 **“§ 881. Concealment of assets; false oaths and**
 28 **claims; bribery**

29 “Whoever—

1 “(1) knowingly conceals from a custodian, trustee, mar-
2 shal, or other officer of the court charged with the control
3 or custody of property, or, in connection with a case under
4 title 11, from creditors or the United States Trustee, any
5 property belonging to the estate of a debtor;

6 “(2) knowingly makes a false oath or account in or in
7 relation to any case under title 11;

8 “(3) knowingly makes a false declaration, certificate,
9 verification, or statement under penalty of perjury as per-
10 mitted under section 1746 of title 28, in or in relation to
11 any case under title 11;

12 “(4) knowingly presents any false claim for proof against
13 the estate of a debtor, or uses any such claim in any case
14 under title 11, in a personal capacity or as or through an
15 agent, proxy, or attorney;

16 “(5) knowingly receives any material amount of property
17 from a debtor after the filing of a case under title 11, with
18 intent to defeat the provisions of title 11;

19 “(6) knowingly and corruptly gives, offers, receives, or
20 attempts to obtain any money or property, remuneration,
21 compensation, reward, advantage, or promise thereof for
22 acting or forbearing to act in any case under title 11;

23 “(7) in a personal capacity or as an agent or officer of
24 any person or corporation, in contemplation of a case under
25 title 11 by or against the person or any other person or
26 corporation, or with intent to defeat the provisions of title
27 11, knowingly transfers or conceals any of his property or
28 the property of such other person or corporation;

29 “(8) after the filing of a case under title 11 or in con-
30 templation thereof, knowingly conceals, destroys, mutilates,
31 falsifies, or makes a false entry in any recorded information
32 (including books, documents, records, and papers) relating
33 to the property or financial affairs of a debtor; or

34 “(9) after the filing of a case under title 11, knowingly
35 withholds from a custodian, trustee, marshal, or other offi-
36 cer of the court or a United States Trustee entitled to its
37 possession, any recorded information (including books, doc-

1 uments, records, and papers) relating to the property or fi-
2 nancial affairs of a debtor,
3 shall be imprisoned not more than 5 years.

4 **“§ 882. Embezzlement against estate**

5 “(a) OFFENSE.—Whoever, being described in subsection (b),
6 knowingly and unlawfully appropriates to the person’s own use,
7 embezzles, spends, or transfers any property or secretes or de-
8 stroys any document belonging to the estate of a debtor shall
9 be imprisoned not more than 5 years.

10 “(b) PERSON TO WHOM SECTION APPLIES.—A person de-
11 scribed in this subsection is one who has access to property or
12 documents belonging to an estate by virtue of the person’s par-
13 ticipation in the administration of the estate as a trustee, cus-
14 todian, marshal, attorney, or other officer of the court or as an
15 agent, employee, or other person engaged by such an officer to
16 perform a service with respect to the estate.

17 **“§ 883. Adverse interest and conduct of officers**

18 “Whoever, being a custodian, trustee, marshal, or other offi-
19 cer of the court—

20 “(1) knowingly purchases any property of the estate of
21 which the person is such an officer in a case under title 11;

22 “(2) knowingly refuses to permit a reasonable oppor-
23 tunity for the inspection by parties in interest of the docu-
24 ments and accounts relating to the affairs of estates in the
25 person’s charge by parties when directed by the court to do
26 so; or

27 “(3) knowingly refuses to permit a reasonable oppor-
28 tunity for the inspection by the United States Trustee of
29 the documents and accounts relating to the affairs of an
30 estate in the person’s charge,

31 shall be fined under this title and shall forfeit the person’s of-
32 fice, which shall thereupon become vacant.

33 **“§ 884. Fee agreements in cases under title 11 and**
34 **receiverships**

35 “Whoever, being a party in interest, whether as a debtor,
36 creditor, receiver, trustee or representative of any of them, or
37 attorney for any such party in interest, in any receivership or

1 case under title 11 in any United States court or under its su-
2 pervision, knowingly and corruptly enters into any agreement,
3 express or implied, with another such party in interest or attor-
4 ney for another such party in interest, for the purpose of fixing
5 the fees or other compensation to be paid to any party in inter-
6 est or to any attorney for any party in interest for services ren-
7 dered in connection therewith, from the assets of the estate,
8 shall be imprisoned not more than one year.

9 **“§ 885. Bankruptcy fraud**

10 “Whoever for the purpose of executing or concealing a
11 scheme or artifice to defraud—

12 “(1) files a petition under title 11, including a fraudulent
13 involuntary bankruptcy petition under section 303 of such
14 title;

15 “(2) files a document in a proceeding under title 11; or

16 “(3) makes a false or fraudulent representation, claim,
17 or promise concerning or in relation to a proceeding under
18 title 11, at any time before or after the filing of the peti-
19 tion, or in relation to a proceeding falsely asserted to be
20 pending under such title,

21 shall be imprisoned not more than 5 years.

22 **“§ 886. Designation of United States attorneys and**
23 **agents of the Federal Bureau of Investiga-**
24 **tion to address abusive reaffirmations of**
25 **debt and materially fraudulent statements**
26 **in bankruptcy schedules**

27 “(a) IN GENERAL.—The Attorney General of the United
28 States shall designate the individuals described in subsection
29 (b) to have primary responsibility in carrying out enforcement
30 activities in addressing violations of section 871 or 875 relating
31 to abusive reaffirmations of debt. In addition to addressing the
32 violations referred to in the preceding sentence, the individuals
33 described under subsection (b) shall address violations of sec-
34 tion 871 or 875 relating to materially fraudulent statements in
35 bankruptcy schedules that are intentionally false or inten-
36 tionally misleading.

1 “(b) UNITED STATES ATTORNEYS AND AGENTS OF THE
2 FEDERAL BUREAU OF INVESTIGATION.—The individuals re-
3 ferred to in subsection (a) are—

4 “(1) the United States attorney for each judicial district
5 of the United States; and

6 “(2) an agent of the Federal Bureau of Investigation for
7 each field office of the Federal Bureau of Investigation.

8 “(c) BANKRUPTCY INVESTIGATIONS.—Each United States
9 attorney designated under this section shall, in addition to any
10 other responsibilities, have primary responsibility for carrying
11 out the duties of a United States attorney under section 3057.

12 “(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts
13 shall establish procedures for referring any case that may con-
14 tain a materially fraudulent statement in a bankruptcy sched-
15 ule to the individuals designated under this section.

16 **“§ 887. Definition**

17 “As used in this subchapter, the term ‘debtor’ means a debt-
18 or concerning whom a petition has been filed under title 11.

19 **“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 ex-
ercise of religious beliefs.

“898. Freedom of access to clinic entrances.

“899. Voting Rights Act violations.

“900. Prevention of intimidation in fair housing cases.

20 **“§ 891. Conspiracy against rights**

21 “If two or more persons—

22 “(1) conspire to injure, oppress, threaten, or intimidate
23 any person in any State in the free exercise or enjoyment
24 of any right or privilege secured to that person by the Con-
25 stitution or laws of the United States, or because of that
26 person’s having so exercised the same; or

27 “(2) go in disguise on the highway, or on the premises
28 of another, with intent to prevent or hinder that other’s

1 free exercise or enjoyment of any right or privilege so se-
2 cured;

3 each shall be imprisoned not more than ten years; and if death
4 results from the acts committed in violation of this section or
5 if such acts include kidnapping or an attempt to kidnap, aggra-
6 vated sexual abuse or an attempt to commit aggravated sexual
7 abuse, or an attempt to kill, each shall be imprisoned for any
8 term of years or for life, or may be sentenced to death.

9 **“§ 892. Deprivation of rights under color of law**

10 “Whoever, under color of any law, statute, ordinance, regula-
11 tion, or custom, knowingly subjects any person in any State to
12 the deprivation of any rights, privileges, or immunities secured
13 or protected by the Constitution or laws of the United States,
14 or to different punishments, pains, or penalties, on account of
15 such person being an alien, or by reason of his color, or race,
16 than are prescribed for the punishment of citizens, shall be im-
17 prisoned not more than one year; and if bodily injury results
18 from the acts committed in violation of this section or if such
19 acts include the use, attempted use, or threatened use of a dan-
20 gerous weapon, explosives, or fire, shall be imprisoned not more
21 than ten years; and if death results from the acts committed
22 in violation of this section or if such acts include kidnapping
23 or an attempt to kidnap, aggravated sexual abuse, or an at-
24 tempt to commit aggravated sexual abuse, or an attempt to
25 kill, shall be imprisoned for any term of years or for life, or
26 may be sentenced to death.

27 **“§ 893. Exclusion of jurors on account of race or**
28 **color**

29 “No citizen possessing all other qualifications which are or
30 may be prescribed by law shall be disqualified for service as
31 grand or petit juror in any court of the United States, or of
32 any State on account of race, color, or previous condition of
33 servitude; and whoever, being an officer or other person
34 charged with any duty in the selection or summoning of jurors,
35 excludes or fails to summon any citizen for such cause, shall
36 be fined not more than \$5,000.

1 **“§ 894. Discrimination against person wearing**
2 **uniform of armed forces**

3 “Whoever, being a proprietor, manager, or employee of a
4 theater or other public place of entertainment or amusement in
5 the District of Columbia, or in any territory, or possession of
6 the United States, causes any person wearing the uniform of
7 any of the armed forces of the United States to be discrimi-
8 nated against because of that uniform, shall be fined under this
9 title.

10 **“§ 895. Federally protected activities**

11 “(a) CONSTRUCTION.—

12 “(1) Nothing in this section shall be construed as indi-
13 cating an intent on the part of Congress to prevent any
14 State, any possession or Commonwealth of the United
15 States, or the District of Columbia, from exercising juris-
16 diction over any offense over which it would have jurisdic-
17 tion in the absence of this section, nor shall anything in
18 this section be construed as depriving State and local law
19 enforcement authorities of responsibility for prosecuting
20 acts that may be violations of this section and that are vio-
21 lations of State and local law. No prosecution of any of-
22 fense described in this section shall be undertaken by the
23 United States except upon the certification in writing of
24 the Attorney General, the Deputy Attorney General, the
25 Associate Attorney General, or any Assistant Attorney Gen-
26 eral specially designated by the Attorney General that in
27 his judgment a prosecution by the United States is in the
28 public interest and necessary to secure substantial justice,
29 which function of certification may not be delegated.

30 “(2) Nothing in this subsection shall be construed to
31 limit the authority of Federal officers, or a Federal grand
32 jury, to investigate possible violations of this section.

33 “(b) OFFENSE.—Whoever, whether or not acting under color
34 of law, by force or threat of force willfully injures, intimidates
35 or interferes with, or attempts to injure, intimidate or interfere
36 with—

1 “(1) any person because he is or has been, or in order
2 to intimidate such person or any other person or any class
3 of persons from—

4 “(A) voting or qualifying to vote, qualifying or cam-
5 paigning as a candidate for elective office, or qualifying
6 or acting as a poll watcher, or any legally authorized
7 election official, in any primary, special, or general elec-
8 tion;

9 “(B) participating in or enjoying any benefit, service,
10 privilege, program, facility, or activity provided or ad-
11 ministered by the United States;

12 “(C) applying for or enjoying employment, or any
13 perquisite thereof, by any agency of the United States;

14 “(D) serving, or attending upon any court in connec-
15 tion with possible service, as a grand or petit juror in
16 any court of the United States;

17 “(E) participating in or enjoying the benefits of any
18 program or activity receiving Federal financial assist-
19 ance;

20 “(2) any person because of his race, color, religion or na-
21 tional origin and because he is or has been—

22 “(A) enrolling in or attending any public school or
23 public college;

24 “(B) participating in or enjoying any benefit service,
25 privilege, program, facility or activity provided or ad-
26 ministered by any State or subdivision thereof;

27 “(C) applying for or enjoying employment, or any
28 perquisite thereof, by any private employer or any
29 agency of any State or subdivision thereof, or joining
30 or using the services or advantages of any labor organi-
31 zation, hiring hall, or employment agency;

32 “(D) serving, or attending upon any court of any
33 State in connection with possible service, as a grand or
34 petit juror;

35 “(E) traveling in or using any facility of interstate
36 commerce, or using any vehicle, terminal, or facility of
37 any common carrier by motor, rail, water, or air;

1 “(F) enjoying the goods, services, facilities, privi-
2 leges, advantages, or accommodations of any inn, hotel,
3 motel, or other establishment which provides lodging to
4 transient guests, or of any restaurant, cafeteria, lunch-
5 room, lunch counter, soda fountain, or other facility
6 which serves the public and which is principally en-
7 gaged in selling food or beverages for consumption on
8 the premises, or of any gasoline station, or of any mo-
9 tion picture house, theater, concert hall, sports arena,
10 stadium, or any other place of exhibition or entertain-
11 ment which serves the public, or of any other establish-
12 ment which serves the public and (i) which is located
13 within the premises of any of the aforesaid establish-
14 ments or within the premises of which is physically lo-
15 cated any of the aforesaid establishments, and (ii)
16 which holds itself out as serving patrons of such estab-
17 lishments;

18 “(3) during or incident to a riot or civil disorder, any
19 person engaged in a business in commerce or affecting
20 commerce, including, but not limited to, any person en-
21 gaged in a business which sells or offers for sale to inter-
22 state travelers a substantial portion of the articles, com-
23 modities, or services which it sells or where a substantial
24 portion of the articles or commodities which it sells or of-
25 fers for sale have moved in commerce; or

26 “(4) any person because that person is or has been, or
27 in order to intimidate such person or any other person or
28 any class of persons from—

29 “(A) participating, without discrimination on account
30 of race, color, religion or national origin, in any of the
31 benefits or activities described in subparagraphs (1)(A)
32 through (1)(E) or subparagraphs (2)(A) through
33 (2)(F); or

34 “(B) affording another person or class of persons op-
35 portunity or protection to so participate; or

36 “(5) any citizen because that person is or has been, or
37 in order to intimidate such citizen or any other citizen from

1 lawfully aiding or encouraging other persons to participate,
2 without discrimination on account of race, color, religion or
3 national origin, in any of the benefits or activities described
4 in subparagraphs (1)(A) through (1)(E) or subparagraphs
5 (2)(A) through (2)(F), or participating lawfully in speech
6 or peaceful assembly opposing any denial of the opportunity
7 to so participate—

8 shall be imprisoned not more than one year; and if bodily in-
9 jury results from the acts committed in violation of this section
10 or if such acts include the use, attempted use, or threatened
11 use of a dangerous weapon, explosives, or fire, shall be impris-
12 oned not more than ten years; and if death results from the
13 acts committed in violation of this section or if such acts in-
14 clude kidnapping or an attempt to kidnap, aggravated sexual
15 abuse or an attempt to commit aggravated sexual abuse, or an
16 attempt to kill, shall be imprisoned for any term of years or
17 for life or may be sentenced to death.

18 “(c) DEFINITION.— As used in this section, the term ‘par-
19 ticipating lawfully in speech or peaceful assembly’ shall not
20 mean the aiding, abetting, or inciting of other persons to riot
21 or to commit any act of physical violence upon any individual
22 or against any real or personal property in furtherance of a
23 riot. Nothing in subparagraph (2)(F) or (4)(A) of this sub-
24 section shall apply to the proprietor of any establishment which
25 provides lodging to transient guests, or to any employee acting
26 on behalf of such proprietor, with respect to the enjoyment of
27 the goods, services, facilities, privileges, advantages, or accom-
28 modations of such establishment if such establishment is lo-
29 cated within a building which contains not more than five
30 rooms for rent or hire and which is actually occupied by the
31 proprietor as the proprietor’s residence.

32 “(d) LAW ENFORCEMENT DUTIES NOT AFFECTED.—Noth-
33 ing in this section shall be construed so as to deter any law
34 enforcement officer from lawfully carrying out the duties of his
35 office; and no law enforcement officer shall be considered to be
36 in violation of this section for lawfully carrying out the duties
37 of his office or lawfully enforcing ordinances and laws of the

1 United States, the District of Columbia, any of the several
 2 States, or any political subdivision of a State. For purposes of
 3 the preceding sentence, the term ‘law enforcement officer’
 4 means any officer of the United States, the District of Colum-
 5 bia, a State, or political subdivision of a State, who is empow-
 6 ered by law to conduct investigations of, or make arrests be-
 7 cause of, offenses against the United States, the District of Co-
 8 lumbia, a State, or a political subdivision of a State.

9 **“§ 896. Deprivation of relief benefits**

10 “Whoever directly or indirectly deprives, attempts to deprive,
 11 or threatens to deprive any person of any employment, position,
 12 work, compensation, or other benefit provided for or made pos-
 13 sible in whole or in part by any Act of Congress appropriating
 14 funds for work relief or relief purposes, on account of political
 15 affiliation, race, color, sex, religion, or national origin, shall be
 16 imprisoned not more than one year.

17 **“§ 897. Damage to religious property; obstruction**
 18 **of persons in the free exercise of religious**
 19 **beliefs**

20 “(a) RELIGIOUS PROPERTY OFFENSE RELATING TO RELI-
 21 GIOUS CHARACTER.—Whoever, in or affecting interstate or for-
 22 eign commerce—

23 “(1) knowingly defaces, damages, or destroys any reli-
 24 gious real property, because of the religious character of
 25 that property; or

26 “(2) knowingly obstructs, by force or threat of force, any
 27 person in the enjoyment of that person’s free exercise of re-
 28 ligious beliefs;

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

30 “(b) PROPERTY OFFENSE MOTIVATED BY RACIAL AND
 31 OTHER CHARACTERISTICS.—Whoever knowingly defaces, dam-
 32 ages, or destroys any religious real property because of the
 33 race, color, or ethnic characteristics of any individual associated
 34 with that religious property, shall be punished as provided in
 35 subsection (c).

36 “(c) PUNISHMENT.—The punishment for a violation of sub-
 37 section (a) is—

1 “(1) if death results from acts committed in violation of
2 this section or if such acts include kidnapping or an at-
3 tempt to kidnap, aggravated sexual abuse or an attempt to
4 commit aggravated sexual abuse, or an attempt to kill, im-
5 prisonment for any term of years or for life, or death;

6 “(2) if bodily injury results to any person, including any
7 public safety officer performing duties as a direct or proxi-
8 mate result of conduct prohibited by this section, and the
9 violation is by means of fire or an explosive, or imprison-
10 ment for more that 40 years;

11 “(3) if bodily injury to any person, including any public
12 safety officer performing duties as a direct or proximate re-
13 sult of conduct prohibited by this section, results from the
14 acts committed in violation of this section or if such acts
15 include the use, attempted use, or threatened use of a dan-
16 gerous weapon, explosives, or fire, imprisonment for not
17 more than 20 years; and

18 “(4) in any other case, imprisonment for not more than
19 one year.

20 “(d) CERTIFICATION.—No prosecution of any offense de-
21 scribed in this section shall be undertaken by the United States
22 except upon the certification in writing of the Attorney General
23 or his designee that in his judgment a prosecution by the
24 United States is in the public interest and necessary to secure
25 substantial justice.

26 “(e) DEFINITION.—As used in this section, the term ‘reli-
27 gious real property’ means any church, synagogue, mosque, re-
28 ligious cemetery, or other religious real property, including fix-
29 tures or religious objects contained within a place of religious
30 worship.

31 “(f) LIMITATION.—No person shall be prosecuted, tried, or
32 punished for any noncapital offense under this section unless
33 the indictment is found or the information is instituted not
34 later than 7 years after the date on which the offense was com-
35 mitted.

36 **“§ 898. Freedom of access to clinic entrances**

37 “(a) PROHIBITED ACTIVITIES.—Whoever—

1 “(1) by force or threat of force or by physical obstruction,
2 knowingly injures, intimidates or interferes with any
3 person because that person is or has been, or in order to
4 intimidate such person or any other person or any class of
5 persons from, obtaining or providing reproductive health
6 services;

7 “(2) by force or threat of force or by physical obstruction,
8 knowingly injures, intimidates or interferes with any
9 person lawfully exercising or seeking to exercise the First
10 Amendment right of religious freedom at a place of religious
11 worship; or

12 “(3) knowingly damages or destroys the property of a facility,
13 or attempts to do so, because such facility provides
14 reproductive health services, or knowingly damages or destroys
15 the property of a place of religious worship,

16 shall be subject to the penalties provided in subsection (b) and
17 the civil remedies provided in subsection (c), except that a parent
18 or legal guardian of a minor shall not be subject to any
19 penalties or civil remedies under this section for such activities
20 insofar as they are directed exclusively at that minor.

21 “(b) PENALTIES.—Whoever violates this section shall—

22 “(1) in the case of a first offense, be imprisoned not
23 more than one year; and

24 “(2) in the case of a second or subsequent offense after
25 a prior conviction under this section, be imprisoned not
26 more than 3 years;

27 except that for an offense involving exclusively a nonviolent
28 physical obstruction, the fine shall, notwithstanding section
29 3571, not be more than \$10,000 and the length of imprisonment
30 shall be not more than six months, or both, for the first
31 offense; and the fine shall, notwithstanding section 3571, be
32 not more than \$25,000 and the length of imprisonment shall
33 be not more than 18 months, or both, for a subsequent offense;
34 and except that if bodily injury results, the length of imprisonment
35 shall be not more than 10 years, and if death results, it
36 shall be for any term of years or for life.

37 “(c) CIVIL REMEDIES.—

1 “(1) RIGHT OF ACTION.—

2 “(A) IN GENERAL.—Any person aggrieved by reason
3 of the conduct prohibited by subsection (a) may com-
4 mence a civil action for the relief set forth in subpara-
5 graph (B), except that such an action may be brought
6 under subsection (a)(1) only by a person involved in
7 providing or seeking to provide, or obtaining or seeking
8 to obtain, services in a facility that provides reproduc-
9 tive health services, and such an action may be brought
10 under subsection (a)(2) only by a person lawfully exer-
11 cising or seeking to exercise the First Amendment right
12 of religious freedom at a place of religious worship or
13 by the entity that owns or operates such place of reli-
14 gious worship.

15 “(B) RELIEF.—In any action under subparagraph
16 (A), the court may award appropriate relief, including
17 temporary, preliminary or permanent injunctive relief
18 and compensatory and punitive damages, as well as the
19 costs of suit and reasonable fees for attorneys and ex-
20 pert witnesses. With respect to compensatory damages,
21 the plaintiff may elect, at any time prior to the ren-
22 dering of final judgment, to recover, in lieu of actual
23 damages, an award of statutory damages in the
24 amount of \$5,000 per violation.

25 “(2) ACTION BY ATTORNEY GENERAL OF THE UNITED
26 STATES.—

27 “(A) IN GENERAL.—If the Attorney General of the
28 United States has reasonable cause to believe that any
29 person or group of persons is being, has been, or may
30 be injured by conduct constituting a violation of this
31 section, the Attorney General may commence a civil ac-
32 tion in any appropriate United States District Court.

33 “(B) RELIEF.—In any action under subparagraph
34 (A), the court may award appropriate relief, including
35 temporary, preliminary or permanent injunctive relief,
36 and compensatory damages to persons aggrieved as de-
37 scribed in paragraph (1)(B). The court, to vindicate the

1 public interest, may also assess a civil penalty against
2 each respondent—

3 “(i) in an amount not exceeding \$10,000 for a
4 nonviolent physical obstruction and \$15,000 for
5 other first violations; and

6 “(ii) in an amount not exceeding \$15,000 for a
7 nonviolent physical obstruction and \$25,000 for
8 any other subsequent violation.

9 “(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

10 “(A) IN GENERAL.—If the Attorney General of a
11 State has reasonable cause to believe that any person
12 or group of persons is being, has been, or may be in-
13 jured by conduct constituting a violation of this section,
14 such Attorney General may commence a civil action in
15 the name of such State, as *parens patriae* on behalf of
16 natural persons residing in such State, in any appro-
17 priate United States District Court.

18 “(B) RELIEF.—In any action under subparagraph
19 (A), the court may award appropriate relief, including
20 temporary, preliminary or permanent injunctive relief,
21 compensatory damages, and civil penalties as described
22 in paragraph (2)(B).

23 “(d) RULES OF CONSTRUCTION.—Nothing in this section
24 shall be construed—

25 “(1) to prohibit any expressive conduct (including peace-
26 ful picketing or other peaceful demonstration) protected
27 from legal prohibition by the First Amendment to the Con-
28 stitution;

29 “(2) to create new remedies for interference with activi-
30 ties protected by the free speech or free exercise clauses of
31 the First Amendment to the Constitution, occurring outside
32 a facility, regardless of the point of view expressed, or to
33 limit any existing legal remedies for such interference;

34 “(3) to provide exclusive criminal penalties or civil rem-
35 edies with respect to the conduct prohibited by this section,
36 or to preempt State or local laws that may provide such
37 penalties or remedies; or

1 “(4) to interfere with the enforcement of State or local
2 laws regulating the performance of abortions or other re-
3 productive health services.

4 “(e) DEFINITIONS.—As used in this section—

5 “(1) the term ‘facility’ includes a hospital, clinic, physi-
6 cian’s office, or other facility that provides reproductive
7 health services, and includes the building or structure in
8 which the facility is located;

9 “(2) the term ‘interfere with’ means to restrict a per-
10 son’s freedom of movement;

11 “(3) the term ‘intimidate’ means to place a person in
12 reasonable apprehension of bodily harm to him-or herself or
13 to another;

14 “(4) the term ‘physical obstruction’ means rendering im-
15 passable ingress to or egress from a facility that provides
16 reproductive health services or to or from a place of reli-
17 gious worship, or rendering passage to or from such a facil-
18 ity or place of religious worship unreasonably difficult or
19 hazardous; and

20 “(5) the term ‘reproductive health services’ means repro-
21 ductive health services provided in a hospital, clinic, physi-
22 cian’s office, or other facility, and includes medical, sur-
23 gical, counselling or referral services relating to the human
24 reproductive system, including services relating to preg-
25 nancy or the termination of a pregnancy.

26 **“§ 899. Voting Rights Act violations**

27 “(a) Whoever deprives any person of any right secured by
28 section 2, 3, 4, 5, 7, or 10 of the Voting Rights Act of 1965
29 or violates section 11(a) of such Act, shall be imprisoned not
30 more than five years.

31 “(b) Whoever, within a year following an election in a polit-
32 ical subdivision in which an examiner has been appointed under
33 the Voting Rights Act of 1965—

34 “(1) destroys, defaces, mutilates, or otherwise alters the
35 marking of a paper ballot which has been cast in such elec-
36 tion; or

1 “(2) alters any official record of voting in such election
2 tabulated from a voting machine or otherwise;
3 shall be imprisoned not more than five years.

4 “(c) Whoever conspires to violate the provisions of subsection
5 (a) or (b) of section 12 of the Voting Rights Act of 1965, or
6 interferes with any right secured by section 2, 3, 4, 5, 7, 10,
7 or 11(a) of such Act shall be imprisoned not more than five
8 years.

9 **“§900. Prevention of intimidation in fair housing**
10 **cases**

11 “Whoever, whether or not acting under color of law, by force
12 or threat of force willfully injures, intimidates or interferes with
13 or attempts to injure, intimidate or interfere with—

14 “(1) any person because of that person’s race, color, reli-
15 gion, sex, handicap (as such term is defined in section 802
16 of the Fair Housing Act), familial status (as such term is
17 defined in section 802 of that Act), or national origin and
18 because that person is or has been selling, purchasing,
19 renting, financing, occupying, or contracting or negotiating
20 for the sale, purchase, rental, financing or occupation of
21 any dwelling, or applying for or participating in any serv-
22 ice, organization, or facility relating to the business of sell-
23 ing or renting dwellings; or

24 “(2) any person because that person is or has been, or
25 in order to intimidate such person or any other person or
26 any class of persons from—

27 “(A) participating, without discrimination on account
28 of race, color, religion, sex, handicap (as such term is
29 defined in section 802 of the Fair Housing Act), famil-
30 ial status (as such term is defined in section 802 of
31 that Act), or national origin, in any of the activities,
32 services, organizations or facilities described in section
33 901(a) of that Act;

34 “(B) affording another person or class of persons op-
35 portunity or protection so to participate; or

36 “(C) any citizen because that citizen is or has been,
37 or in order to discourage such citizen or any other cit-

1 izen from lawfully aiding or encouraging other persons
 2 to participate, without discrimination on account of
 3 race, color, religion, sex, handicap (as such term is de-
 4 fined in section 802 of the Fair Housing Act), familial
 5 status (as such term is defined in section 802 of that
 6 Act), or national origin, in any of the activities, serv-
 7 ices, organizations or facilities described in subsection
 8 901(a), or participating lawfully in speech or peaceful
 9 assembly opposing any denial of the opportunity to so
 10 participate;

11 shall be imprisoned not more than one year; and if bodily in-
 12 jury results from the acts committed in violation of this section
 13 or if such acts include the use, attempted use, or threatened
 14 use of a dangerous weapon, explosives, or fire shall be impris-
 15 oned not more than ten years; and if death results from the
 16 acts committed in violation of this section or if such acts in-
 17 clude kidnapping or an attempt to kidnap, aggravated sexual
 18 abuse or an attempt to commit aggravated sexual abuse, or an
 19 attempt to kill, shall be imprisoned for any term of years or
 20 for life.

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 prop-
 erty 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.

22 **“§ 921. Agents of foreign governments**

23 “(a) OFFENSE.—Whoever, other than a diplomatic or con-
 24 sular officer or attache, acts in the United States as an agent
 25 of a foreign government without prior notification to the Attor-
 26 ney General if required in subsection (b), shall be imprisoned
 27 not more than ten years.

28 “(b) RULES AND REGULATIONS.—The Attorney General
 29 shall promulgate rules and regulations establishing require-
 30 ments for notification.

1 “(c) TRANSMISSION.—The Attorney General shall, upon re-
2 ceipt, promptly transmit one copy of each notification state-
3 ment filed under this section to the Secretary of State for such
4 comment and use as the Secretary of State may determine to
5 be appropriate from the point of view of the foreign relations
6 of the United States. Failure of the Attorney General to do so
7 shall not be a bar to prosecution under this section.

8 “(d) DEFINITION.—As used in this section, the term ‘agent
9 of a foreign government’ means an individual who agrees to op-
10 erate within the United States subject to the direction or con-
11 trol of a foreign government or official, except that such term
12 does not include—

13 “(1) a duly accredited diplomatic or consular officer of
14 a foreign government, who is so recognized by the Depart-
15 ment of State;

16 “(2) any officially and publicly acknowledged and spon-
17 sored official or representative of a foreign government;

18 “(3) any officially and publicly acknowledged and spon-
19 sored member of the staff of, or employee of, an officer, of-
20 ficial, or representative described in paragraph (1) or (2),
21 who is not a United States citizen; or

22 “(4) any person engaged in a legal commercial trans-
23 action.

24 “(e) ADDITIONAL BASIS FOR DETERMINING AGENCY.—Not-
25 withstanding subsection (d)(4), any person engaged in a legal
26 commercial transaction shall be considered to be an agent of
27 a foreign government for purposes of this section if—

28 “(1) such person agrees to operate within the United
29 States subject to the direction or control of a foreign gov-
30 ernment or official; and

31 “(2) such person—

32 “(A) is an agent of Cuba or any other country that
33 the President determines (and so reports to the Con-
34 gress) poses a threat to the national security interest
35 of the United States for purposes of this section, unless
36 the Attorney General, after consultation with the Sec-
37 retary of State, determines and so reports to the Con-

1 gress that the national security or foreign policy inter-
2 ests of the United States require that the provisions of
3 this section do not apply in specific circumstances to
4 agents of such country; or

5 “(B) has been convicted of, or has entered a plea of
6 nolo contendere with respect to, any offense under sec-
7 tion 301 through 303, 601, or 261 of this title or
8 under section 11 of the Export Administration Act of
9 1979, except that the provisions of this subsection shall
10 not apply to a person described in this clause for a pe-
11 riod of more than five years beginning on the date of
12 the conviction or the date of entry of the plea of nolo
13 contendere, as the case may be.

14 **“§ 922. Diplomatic codes and correspondence**

15 “Whoever, by virtue of his employment by the United States,
16 obtains from another or has or has had custody of or access
17 to, any official diplomatic code or any matter prepared in any
18 such code, or which purports to have been prepared in any such
19 code, and without authorization or competent authority, know-
20 ingly publishes or furnishes to another any such code or mat-
21 ter, or any matter which was obtained while in the process of
22 transmission between any foreign government and its diplo-
23 matic mission in the United States, shall be or imprisoned not
24 more than ten years.

25 **“§ 923. False statements influencing foreign gov-
26 ernment**

27 “Whoever, in relation to any dispute or controversy between
28 a foreign government and the United States, knowingly makes
29 any untrue statement, either orally or in writing, under oath
30 before any person authorized and empowered to administer
31 oaths, which the affiant has knowledge or reason to believe will,
32 or may be used to influence the measures or conduct of any
33 foreign government, or of any officer or agent of any foreign
34 government, to the injury of the United States, or with a view
35 or intent to influence any measure of or action by the United
36 States or any department or agency thereof, to the injury of
37 the United States, shall be imprisoned not more than ten years.

1 **“§ 924. Conspiracy to kill, kidnap, maim, or injure**
2 **persons or damage property in a foreign**
3 **country**

4 “(a) OFFENSE AGAINST PERSONS.—

5 “(1) ELEMENTS.—Whoever, within the jurisdiction of
6 the United States, conspires with one or more other per-
7 sons, regardless of where such other person or persons are
8 located, to commit at any place outside the United States
9 an act that would constitute the offense of murder, kidnap-
10 ping, or maiming if committed in the special maritime and
11 territorial jurisdiction of the United States shall, if any of
12 the conspirators commits an act within the jurisdiction of
13 the United States to effect any object of the conspiracy, be
14 punished as provided in paragraph (2).

15 “(2) PUNISHMENT.— The punishment for an offense under
16 paragraph (1) is—

17 “(A) imprisonment for any term of years or for life if the
18 offense is conspiracy to murder or kidnap; and

19 “(B) imprisonment for not more than 35 years if the of-
20 fense is conspiracy to maim.

21 “(b) OFFENSE AGAINST PROPERTY.—Whoever, within the
22 jurisdiction of the United States, conspires with one or more
23 persons, regardless of where such other person or persons are
24 located, to damage or destroy specific property situated within
25 a foreign country and belonging to a foreign government or to
26 any political subdivision thereof with which the United States
27 is at peace, or any railroad, canal, bridge, airport, airfield, or
28 other public utility, public conveyance, or public structure, or
29 any religious, educational, or cultural property so situated,
30 shall, if any of the conspirators commits an act within the ju-
31 risdiction of the United States to effect any object of the con-
32 spiracy, be imprisoned not more than 25 years.

33 **“§ 925. Enlistment in foreign service**

34 “(a) OFFENSE.—Whoever, within the United States, enlists
35 or enters himself, or hires or retains another to enlist or enter
36 himself, or to go beyond the jurisdiction of the United States
37 with intent to be enlisted or entered in the service of any for-

1 eign prince, state, colony, district, or people as a soldier or as
2 a marine or seaman on board any vessel of war, letter of
3 marque, or privateer, shall be imprisoned not more than three
4 years.

5 “(b) EXCLUSIONS.—

6 “(1) This section does not apply to citizens or subjects
7 of any country engaged in war with a country with which
8 the United States is at war, unless such citizen or subject
9 of such foreign country shall hire or solicit a citizen of the
10 United States to enlist or go beyond the jurisdiction of the
11 United States with intent to enlist or enter the service of
12 a foreign country. Enlistments under this subsection shall
13 be under regulations prescribed by the Secretary of the
14 Army.

15 “(2) This section and sections 957 and 958 do not apply
16 to any subject or citizen of any foreign prince, state, col-
17 ony, district, or people who is transiently within the United
18 States and enlists or enters himself on board any vessel of
19 war, letter of marque, or privateer, which at the time of its
20 arrival within the United States was fitted and equipped as
21 such, or hires or retains another subject or citizen of the
22 same foreign prince, state, colony, district, or people who
23 is transiently within the United States to enlist or enter
24 himself to serve such foreign prince, state, colony, district,
25 or people on board such vessel of war, letter of marque, or
26 privateer, if the United States shall then be at peace with
27 such foreign prince, state, colony, district, or people.

28 **“§ 926. Expedition against friendly nation**

29 “Whoever, within the United States, knowingly begins or
30 sets on foot or provides or prepares a means for or furnishes
31 the money for, or takes part in, any military or naval expedi-
32 tion or enterprise to be carried on from thence against the ter-
33 ritory or dominion of any foreign prince or state, or of any col-
34 ony, district, or people with whom the United States is at
35 peace, shall be imprisoned not more than three years.

1 **“§ 927. Detention of armed vessel**

2 “(a) AUTHORITY OF PRESIDENT.—During a war in which
3 the United States is a neutral nation, the President, or any
4 person authorized by him, may detain any armed vessel owned
5 wholly or in part by citizens of the United States, or any vessel,
6 domestic or foreign (other than one which has entered the ports
7 of the United States as a public vessel), which is manifestly
8 built for warlike purposes or has been converted or adapted
9 from a private vessel to one suitable for warlike use, until the
10 owner or master, or person having charge of such vessel, shall
11 furnish proof satisfactory to the President, or to the person
12 duly authorized by him, that the vessel will not be employed to
13 cruise against or commit or attempt to commit hostilities upon
14 the subjects, citizens, or property of any foreign prince or state,
15 or of any colony, district, or people with which the United
16 States is at peace, and that the said vessel will not be sold or
17 delivered to any belligerent nation, or to an agent, officer, or
18 citizen of such nation, by them or any of them, within the juris-
19 diction of the United States, or upon the high seas.

20 “(b) OFFENSE.—Whoever, in violation of this section takes,
21 or attempts to take, or authorizes the taking of any such ves-
22 sel, out of port or from the United States, shall be imprisoned
23 not more than ten years.

24 “(c) FORFEITURE.—In addition, such vessel, her tackle, ap-
25 parel, furniture, equipment, and her cargo shall be forfeited to
26 the United States.

27 **“§ 928. Protection of property occupied by foreign**
28 **governments**

29 “(a) PROPERTY OFFENSE.—Whoever knowingly injures,
30 damages, or destroys, or attempts to injure, damage, or de-
31 stroy, any property, real or personal, located within the United
32 States and belonging to or utilized or occupied by any foreign
33 government or international organization, by a foreign official
34 or official guest, shall be imprisoned not more than five years.

35 “(b) THREAT AND HARASSMENT OFFENSE.—Whoever,
36 knowingly with intent to intimidate, coerce, threaten, or har-
37 ass—

1 “(1) forcibly thrusts any part of himself or any object
2 within or upon that portion of any building or premises lo-
3 cated within the United States, which portion is used or oc-
4 cupied for official business or for diplomatic, consular, or
5 residential purposes by—

6 “(A) a foreign government, including such use as a
7 mission to an international organization;

8 “(B) an international organization;

9 “(C) a foreign official; or

10 “(D) an official guest; or

11 “(2) refuses to depart from such portion of such building
12 or premises after a request—

13 “(A) by an employee of a foreign government or of
14 an international organization, if such employee is au-
15 thorized to make such request by the senior official of
16 the unit of such government or organization which oc-
17 cupies such portion of such building or premises;

18 “(B) by a foreign official or any member of the for-
19 eign official’s staff who is authorized by the foreign of-
20 ficial to make such request;

21 “(C) by an official guest or any member of the offi-
22 cial guest’s staff who is authorized by the official guest
23 to make such request; or

24 “(D) by any person present having law enforcement
25 powers;

26 shall be imprisoned not more than six months.

27 “(c) DEFINITIONS.—For the purpose of this section ‘foreign
28 government’, ‘foreign official’, ‘international organization’, and
29 ‘official guest’ shall have the same meanings as those provided
30 in section 136.

31 “SUBCHAPTER G—POSTAL SERVICE

“Sec.

“941. Obstruction of mails generally.

“942. Obstruction of correspondence.

“943. Delay or destruction of mail or newspapers.

“944. Keys or locks stolen or reproduced.

“945. Destruction of letter boxes or mail.

“946. Theft of property used by Postal Service.

“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. Franking privilege.

1 **“§ 941. Obstruction of mails generally**

2 “Whoever knowingly obstructs the passage of the mail, or
3 any carrier or conveyance carrying the mail, shall be impris-
4 oned not more than six months.

5 **“§ 942. Obstruction of correspondence**

6 “Whoever takes any letter, postal card, or package out of
7 any post office or any authorized depository for mail matter,
8 or from any letter or mail carrier, or which has been in any
9 post office or authorized depository, or in the custody of any
10 letter or mail carrier, before it has been delivered to the person
11 to whom it was directed, with intent to obstruct the cor-
12 respondence, or to pry into the business or secrets of another,
13 or opens, secretes, embezzles, or destroys the same, shall be im-
14 prisoned not more than five years.

15 **“§ 943. Delay or destruction of mail or newspapers**

16 “(a) MAIL MATTER.—Whoever, being a Postal Service offi-
17 cer or employee, unlawfully secretes, destroys, detains, delays,
18 or opens any letter, postal card, package, bag, or mail en-
19 trusted to that officer or employee or which shall come into his
20 or her possession, and which was intended to be conveyed by
21 mail, or carried or delivered by any carrier or other employee
22 of the Postal Service, or forwarded through or delivered from
23 any post office or station thereof established by authority of the
24 Postmaster General or the Postal Service, shall be imprisoned
25 not more than five years.

26 “(b) NEWSPAPER.—Whoever, being a Postal Service officer
27 or employee, improperly detains, delays, or destroys any news-
28 paper, or permits any other person to detain, delay, or destroy
29 the same, or opens, or permits any other person to open, any
30 mail or package of newspapers not directed to the office where
31 he is employed; or Whoever, without authority, opens, or de-
32 stroy any mail or package of newspapers not directed to him,
33 shall be imprisoned not more than one year.

“§ 944. Keys or locks stolen or reproduced

“Whoever—

“(1) steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department or the Postal Service and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter;

“(2) knowingly and unlawfully makes, forges, or counterfeits any such key, or possesses any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

“(3) being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by the department, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer;

shall be imprisoned not more than ten years.

“§ 945. Destruction of letter boxes or mail

“Whoever knowingly injures, tears down or destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same or knowingly injures, defaces or destroys any mail deposited therein, shall be imprisoned not more than three years.

“§ 946. Theft of property used by Postal Service

“Whoever steals, purloins, or embezzles any property used by the Postal Service, or appropriates any such property to any other than its proper use, or conveys away any such property to the hindrance or detriment of the public service, shall be imprisoned not more than three years, but if the value of such

1 property does not exceed \$1,000, the offender shall be impris-
2 oned not more than one year.

3 **“§ 947. Theft or receipt of stolen mail matter gen-**
4 **erally**

5 “Whoever—

6 “(1) steals, takes, or abstracts, or by fraud or deception
7 obtains, or attempts so to obtain, from or out of any mail,
8 post office, or station thereof, letter box, mail receptacle, or
9 any mail route or other authorized depository for mail mat-
10 ter, or from a letter or mail carrier, any letter, postal card,
11 package, bag, or mail, or abstracts or removes from any
12 such letter, package, bag, or mail, any article or thing con-
13 tained therein, or secretes, embezzles, or destroys any such
14 letter, postal card, package, bag, or mail, or any article or
15 thing contained therein;

16 “(2) steals, takes, or abstracts, or by fraud or deception
17 obtains any letter, postal card, package, bag, or mail, or
18 any article or thing contained therein which has been left
19 for collection upon or adjacent to a collection box or other
20 authorized depository of mail matter; or

21 “(3) buys, receives, or conceals, or unlawfully has in his
22 possession, any letter, postal card, package, bag, or mail,
23 or any article or thing contained therein, which has been
24 so stolen, taken, embezzled, or abstracted, as herein de-
25 scribed, knowing the same to have been stolen, taken, em-
26 bezzled, or abstracted;

27 shall be imprisoned not more than five years.

28 **“§ 948. Theft of mail matter by officer or employee**

29 “Whoever, being a Postal Service officer or employee, embez-
30 zles any letter, postal card, package, bag, or mail, or any article
31 or thing contained therein entrusted to him or which comes
32 into his possession intended to be conveyed by mail, or carried
33 or delivered by any carrier, messenger, agent, or other person
34 employed in any department of the Postal Service, or forwarded
35 through or delivered from any post office or station thereof es-
36 tablished by authority of the Postmaster General or of the
37 Postal Service; or steals, abstracts, or removes from any such

1 letter, package, bag, or mail, any article or thing contained
2 therein, shall be imprisoned not more than five years.

3 **“§ 949. Misappropriation of postal funds**

4 “(a) OFFENSE.—Whoever, being a Postal Service officer or
5 employee, loans, uses, pledges, hypothecates, or converts to his
6 own use, or deposits in any bank, or exchanges for other funds
7 or property, except as authorized by law, any money or prop-
8 erty coming into his hands or under his control in any manner,
9 in the execution or under color of his office, employment, or
10 service, whether or not the same shall be the money or property
11 of the United States; or fails or refuses to remit to or deposit
12 in the Treasury of the United States or in a designated deposi-
13 tory, or to account for or turn over to the proper officer or
14 agent, any such money or property, when required to do so by
15 law or the regulations of the Postal Service, or upon demand
16 or order of the Postal Service, either directly or through a duly
17 authorized officer or agent, is guilty of embezzlement; and
18 every such person, as well as every other person advising or
19 knowingly participating therein, shall be imprisoned not more
20 than ten years; but if the amount or value thereof does not ex-
21 ceed \$1,000, he shall be imprisoned not more than one year.

22 “(b) EXCLUSION.—This section does not prohibit any Postal
23 Service officer or employee from depositing, under the direction
24 of the Postal Service, in a national bank designated by the Sec-
25 retary of the Treasury for that purpose, to his own credit as
26 Postal Service officer or employee any funds in his charge, nor
27 prevent his negotiating drafts or other evidences of debt
28 through such bank, or through United States disbursing offi-
29 cers, or otherwise, when instructed or required so to do by the
30 Postal Service, for the purpose of remitting surplus funds from
31 one post office to another.

32 **“§ 950. Injurious articles as nonmailable**

33 “(a) IN GENERAL.—All kinds of poison, and all articles and
34 compositions containing poison, and all poisonous animals, in-
35 sects, reptiles, and all explosives, inflammable materials, infer-
36 nal machines, and mechanical, chemical, or other devices or
37 compositions which may ignite or explode, and all disease

1 germs or scabs, and all other natural or artificial articles, com-
2 positions, or material which may kill or injure another, or in-
3 jure the mails or other property, whether or not sealed as first-
4 class matter, are nonmailable matter and shall not be conveyed
5 in the mails or delivered from any post office or station thereof,
6 nor by any officer or employee of the Postal Service.

7 “(b) EXCEPTIONS.—The Postal Service may permit the
8 transmission in the mails, under such rules and regulations as
9 it shall prescribe as to preparation and packing, of any such
10 articles which are not outwardly or of their own force dan-
11 gerous or injurious to life, health, or property.

12 “(c) SCORPIANS.—The Postal Service is authorized and di-
13 rected to permit the transmission in the mails, under regula-
14 tions to be prescribed by it, of live scorpions which are to be
15 used for purposes of medical research or for the manufacture
16 of antivenom. Such regulations shall include such provisions
17 with respect to the packaging of such live scorpions for trans-
18 mission in the mails as the Postal Service deems necessary or
19 desirable for the protection of Postal Service personnel and of
20 the public generally and for ease of handling by such personnel
21 and by any individual connected with such research or manu-
22 facture. Nothing contained in this paragraph shall be construed
23 to authorize the transmission in the mails of live scorpions by
24 means of aircraft engaged in the carriage of passengers for
25 compensation or hire.

26 “(d) POISONOUS DRUGS AND MEDICINES.—The trans-
27 mission in the mails of poisonous drugs and medicines may be
28 limited by the Postal Service to shipments of such articles from
29 the manufacturer thereof or dealer therein to licensed physi-
30 cians, surgeons, dentists, pharmacists, druggists, cosmetolo-
31 gists, barbers, and veterinarians under such rules and regula-
32 tions as it shall prescribe.

33 “(e) POISONS FOR SCIENTIFIC USE.—The transmission in
34 the mails of poisons for scientific use, and which are not out-
35 wardly dangerous or of their own force dangerous or injurious
36 to life, health, or property, may be limited by the Postal Service
37 to shipments of such articles between the manufacturers there-

1 of, dealers therein, bona fide research or experimental scientific
2 laboratories, and such other persons who are employees of the
3 Federal, a State, or local government, whose official duties are
4 comprised, in whole or in part, of the use of such poisons, and
5 who are designated by the head of the agency in which they
6 are employed to receive or send such articles, under such rules
7 and regulations as the Postal Service shall prescribe.

8 “(f) INTOXICATING LIQUORS.—All spirituous, vinous, malted,
9 fermented, or other intoxicating liquors of any kind are non-
10 mailable and shall not be deposited in or carried through the
11 mails.

12 “(g) KNIVES.—All knives having a blade which opens auto-
13 matically (1) by hand pressure applied to a button or other de-
14 vice in the handle of the knife, or (2) by operation of inertia,
15 gravity, or both, are nonmailable and shall not be deposited in
16 or carried by the mails or delivered by any officer or employee
17 of the Postal Service. Such knives may be conveyed in the
18 mails, under such regulations as the Postal Service shall pre-
19 scribe—

20 “(1) to civilian or Armed Forces supply or procurement
21 officers and employees of the Federal Government ordering,
22 procuring, or purchasing such knives in connection with the
23 activities of the Federal Government;

24 “(2) to supply or procurement officers of the National
25 Guard, the Air National Guard, or militia of a State order-
26 ing, procuring, or purchasing such knives in connection
27 with the activities of such organizations;

28 “(3) to supply or procurement officers or employees of
29 any State, or any political subdivision of a State or Terri-
30 tory, ordering, procuring, or purchasing such knives in con-
31 nection with the activities of such government; and

32 “(4) to manufacturers of such knives or bona fide deal-
33 ers therein in connection with any shipment made pursuant
34 to an order from any person designated in paragraphs (1),
35 (2), and (3).

36 The Postal Service may require, as a condition of conveying
37 any such knife in the mails, that any person proposing to mail

1 such knife explain in writing to the satisfaction of the Postal
2 Service that the mailing of such knife will not be in violation
3 of this section.

4 “(h) ADVERTISING, PROMOTIONAL, OR SALES MATTER.—
5 Any advertising, promotional, or sales matter which solicits or
6 induces the mailing of anything declared nonmailable by this
7 section is likewise nonmailable unless such matter contains
8 wrapping or packaging instructions which are in accord with
9 regulations promulgated by the Postal Service.

10 “(i) BALLISTIC KNIVES.—

11 “(1) GENERALLY.—Any ballistic knife shall be subject to
12 the same restrictions and penalties provided under sub-
13 section (g) for knives described in the first sentence of that
14 subsection.

15 “(2) DEFINITION.—As used in this subsection, the term
16 ‘ballistic knife’ means a knife with a detachable blade that
17 is propelled by a spring-operated mechanism.

18 “(j) OFFENSES.—

19 “(1) COMPLIANCE WITH RULES AND REGULATIONS.—
20 Whoever knowingly deposits for mailing or delivery, or
21 knowingly causes to be delivered by mail, according to the
22 direction thereon, or at any place at which it is directed to
23 be delivered by the person to whom it is addressed, any-
24 thing declared nonmailable by this section, unless in ac-
25 cordance with the rules and regulations authorized to be
26 prescribed by the Postal Service, shall be imprisoned not
27 more than one year.

28 “(2) WITH INTENT TO KILL OR INJURE ANOTHER OR
29 TO INJURE THE MAILS OR PROPERTY.—Whoever know-
30 ingly deposits for mailing or delivery, or knowingly causes
31 to be delivered by mail, according to the direction thereon
32 or at any place to which it is directed to be delivered by
33 the person to whom it is addressed, anything declared non-
34 mailable by this section, whether or not transmitted in ac-
35 cordance with the rules and regulations authorized to be
36 prescribed by the Postal Service, with intent to kill or in-

1 jure another, or injure the mails or other property, shall be
2 imprisoned not more than twenty years.

3 “(3) DEATH PENALTY.—Whoever is convicted of any
4 crime prohibited by this section, which has resulted in the
5 death of any person, shall be subject also to the death pen-
6 alty or to imprisonment for life.

7 **“§ 951. Franking privilege**

8 “Whoever makes use of any official envelope, label, or
9 indorsement authorized by law, to avoid the payment of postage
10 or registry fee on his private letter, packet, package, or other
11 matter in the mail, shall be fined under this title.

12 **“SUBCHAPTER H—SPECIAL MARITIME AND TERRI-**
13 **TORIAL JURISDICTION OF THE UNITED STATES**

“Sec.

“961. Laws of States adopted for areas within Federal jurisdiction.

14 **“§ 961. Laws of States adopted for areas within**
15 **Federal jurisdiction**

16 “(a) OFFENSE.—Whoever within the reserved or acquired
17 special maritime or territorial jurisdiction of the United States,
18 or on, above, or below any portion of the territorial sea of the
19 United States not within the jurisdiction of any State, is guilty
20 of any act or omission which, although not made punishable by
21 any enactment of Congress, would be punishable if committed
22 or omitted within the jurisdiction of the State in which such
23 place is situated, by the laws thereof in force at the time of
24 such act or omission, shall be guilty of a like offense and sub-
25 ject to a like punishment.

26 “(b) OPERATING A MOTOR VEHICLE UNDER THE INFLU-
27 ENCE OF ALCOHOL.—

28 “(1) LIMITATION ON RIGHT OR PRIVILEGE TO OPERATE
29 A MOTOR VEHICLE.—Subject to paragraph (2) and for pur-
30 poses of subsection (a) of this section, that which may or
31 shall be imposed through judicial or administrative action
32 under the law of a State, territory, possession, or district,
33 for a conviction for operating a motor vehicle under the in-
34 fluence of a drug or alcohol, shall be considered to be a
35 punishment provided by that law. Any limitation on the

1 right or privilege to operate a motor vehicle imposed under
 2 this subsection shall apply only to the special maritime and
 3 territorial jurisdiction of the United States.

4 “(2) ADDITIONAL PUNISHMENT.—In addition to any term of
 5 imprisonment provided for operating a motor vehicle under the
 6 influence of a drug or alcohol imposed under the law of a State,
 7 territory, possession, or district, the punishment for such an of-
 8 fense under this section shall include an additional term of im-
 9 prisonment of not more than 1 year, or if serious bodily injury
 10 of a child is caused, not more than 5 years, or if death of a
 11 child is caused, not more than 10 years, and an additional fine
 12 under this title, or both, if—

13 “(A) a child (other than the offender) was present in the
 14 motor vehicle when the offense was committed; and

15 “(B) the law of the State, territory, possession, or dis-
 16 trict in which the offense occurred does not provide an ad-
 17 ditional term of imprisonment under the circumstances de-
 18 scribed in subparagraph (A).

19 “(c) TERRITORIAL SEA.—Whenever any waters of the terri-
 20 torial sea of the United States lie outside the territory of any
 21 State, such waters (including the airspace above and the seabed
 22 and subsoil below, and artificial islands and fixed structures
 23 erected thereon) shall be deemed, for purposes of subsection
 24 (a), to lie within the area of the State that it would lie within
 25 if the boundaries of such State were extended seaward to the
 26 outer limit of the territorial sea of the United States.

27 **“CHAPTER 29—CRIMES RELATED TO PROTEC-**
 28 **TION OF GOVERNMENT FUNCTIONS AND IN-**
 29 **TEGRITY**

| “Subchapter | Sec. |
|--|-------------|
| “A. Bribery, graft, and conflicts of interest | 991 |
| “B. Claims and services in matters affecting govern- ment | 1017 |
| “C. Contempts | 1021 |
| “D. Elections and political activities | 1031 |
| “E. Emblems, insignia, and names | 1051 |
| “F. Escape and rescue | 1071 |
| “G. False personation | 1091 |
| “H. Fugitives from justice | 1101 |
| “I. Obstruction of justice | 1131 |

1 appointed to be a public official, or has been officially in-
2 formed that such person will be so nominated or appointed;
3 and

4 “(3) the term ‘official act’ means any decision or action
5 on any question, matter, cause, suit, proceeding or con-
6 troversy, which may at any time be pending, or which may
7 by law be brought before any public official, in such offi-
8 cial’s official capacity, or in such official’s place of trust or
9 profit.

10 “(b) BRIBERY.—Whoever—

11 “(1) corruptly gives, offers or promises anything of value
12 to any public official or person who has been selected to be
13 a public official, or offers or promises any public official or
14 any person who has been selected to be a public official to
15 give anything of value to any other person or entity, with
16 intent—

17 “(A) to influence any official act; or

18 “(B) to influence such public official or person who
19 has been selected to be a public official to commit or
20 aid in committing, or collude in, or allow, any fraud,
21 or make opportunity for the commission of any fraud,
22 on the United States; or

23 “(C) to induce such public official or such person
24 who has been selected to be a public official to do or
25 omit to do any act in violation of the lawful duty of
26 such official or person;

27 “(2) being a public official or person selected to be a
28 public official, corruptly demands, seeks, receives, accepts,
29 or agrees to receive or accept anything of value personally
30 or for any other person or entity, in return for—

31 “(A) being influenced in the performance of any offi-
32 cial act;

33 “(B) being influenced to commit or aid in commit-
34 ting, or to collude in, or allow, any fraud, or make op-
35 portunity for the commission of any fraud on the
36 United States; or

1 “(C) being induced to do or omit to do any act in
2 violation of the official duty of such official or person;

3 “(3) corruptly gives, offers, or promises anything of
4 value to any person, or offers or promises such person to
5 give anything of value to any other person or entity, with
6 intent to influence the testimony under oath or affirmation
7 of such first-mentioned person as a witness upon a trial,
8 hearing, or other proceeding, before any court, any com-
9 mittee of either House or both Houses of Congress, or any
10 agency, commission, or officer authorized by the laws of the
11 United States to hear evidence or take testimony, or with
12 intent to influence such person to absent himself therefrom;
13 or

14 “(4) corruptly demands, seeks, receives, accepts, or
15 agrees to receive or accept anything of value personally or
16 for any other person or entity in return for being influ-
17 enced in testimony under oath or affirmation as a witness
18 upon any such trial, hearing, or other proceeding, or in re-
19 turn for absenting himself therefrom;

20 shall be imprisoned for not more than fifteen years and may
21 be disqualified from holding any office of honor, trust, or profit
22 under the United States.

23 “(c) UNLAWFUL REWARDS.—Whoever—

24 “(1) otherwise than as provided by law for the proper
25 discharge of official duty—

26 “(A) gives, offers, or promises anything of value to
27 any public official, former public official, or person se-
28 lected to be a public official, for or because of any offi-
29 cial act performed or to be performed by such public
30 official, former public official, or person selected to be
31 a public official; or

32 “(B) being a public official, former public official, or
33 person selected to be a public official, otherwise than
34 as provided by law for the proper discharge of official
35 duty, demands, seeks, receives, accepts, or agrees to re-
36 ceive or accept anything of value personally for or be-

1 cause of any official act performed or to be performed
2 by such official or person;

3 “(2) gives, offers, or promises anything of value to any
4 person, for or because of the testimony under oath or affir-
5 mation given or to be given by such person as a witness
6 upon a trial, hearing, or other proceeding, before any court,
7 any committee of either House or both Houses of Congress,
8 or any agency, commission, or officer authorized by the
9 laws of the United States to hear evidence or take testi-
10 mony, or for or because of such person’s absence there-
11 from;

12 “(3) demands, seeks, receives, accepts, or agrees to re-
13 ceive or accept anything of value personally for or because
14 of the testimony under oath or affirmation given or to be
15 given by such person as a witness upon any such trial,
16 hearing, or other proceeding, or for or because of such per-
17 son’s absence therefrom;

18 shall be imprisoned for not more than two years.

19 “(d) EXCLUSION.—Paragraphs (3) and (4) of subsection (b)
20 and paragraphs (2) and (3) of subsection (c) shall not be con-
21 strued to prohibit the payment or receipt of witness fees pro-
22 vided by law, or the payment, by the party upon whose behalf
23 a witness is called and receipt by a witness, of the reasonable
24 cost of travel and subsistence incurred and the reasonable value
25 of time lost in attendance at any such trial, hearing, or pro-
26 ceeding, or in the case of expert witnesses, a reasonable fee for
27 time spent in the preparation of such opinion, and in appearing
28 and testifying.

29 **“§ 992. Definitions for certain sections**

30 “(a) 993, 995, 997, 998, AND 999.—For the purpose of sec-
31 tions 993, 995, 997, 998, and 999 the term ‘special Govern-
32 ment employee’ means—

33 “(1) an officer or employee of the executive or legislative
34 branch of the United States Government, of any inde-
35 pendent agency of the United States or of the District of
36 Columbia, who is retained, designated, appointed, or em-
37 ployed to perform, with or without compensation, for not

1 to exceed one 130 during any period of 365 consecutive
2 days, temporary duties either on a full-time or intermittent
3 basis, a part-time United States commissioner, a part-time
4 United States magistrate judge, or, regardless of the num-
5 ber of days of appointment, an independent counsel ap-
6 pointed under chapter 40 of title 28 and any person ap-
7 pointed by that independent counsel under section 594(c)
8 of title 28;

9 “(2) every person serving as a part-time local representa-
10 tive of a Member of Congress in the Member’s home dis-
11 trict or State; and

12 “(3) notwithstanding section 29(c) and (d) of the Act of
13 August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d)),
14 a Reserve officer of the Armed Forces, or an officer of the
15 National Guard of the United States, unless otherwise an
16 officer or employee of the United States, while on active
17 duty solely for training;

18 except that a Reserve officer of the Armed Forces or an officer
19 of the National Guard of the United States who is voluntarily
20 serving a period of extended active duty in excess of 130 days
21 shall be classified as an officer of the United States within the
22 meaning of section 993 and sections 995 through 999 and
23 1005, and a Reserve officer of the Armed Forces or an officer
24 of the National Guard of the United States who is serving in-
25 voluntarily shall be classified as a special Government em-
26 ployee. The terms ‘officer or employee’ and ‘special Government
27 employee’ as used in sections 993, 995, 997 through 999, and
28 1005, does not include enlisted members of the Armed Forces.

29 “(b) 995 AND 997.—For the purposes of sections 995 and
30 997, the term ‘official responsibility’ means the direct adminis-
31 trative or operating authority, whether intermediate or final,
32 and either exercisable alone or with others, and either person-
33 ally or through subordinates, to approve, disapprove, or other-
34 wise direct Government action.

35 “(c) EXCLUSION FROM ‘OFFICER’ AND ‘EMPLOYEE’.— Ex-
36 cept as otherwise provided in such sections, the terms ‘officer’
37 and ‘employee’ in sections 993, 995, 997 through 999, and

1 1005 does not include the President, the Vice President, a
2 Member of Congress, or a Federal judge.

3 “(d) ‘MEMBER OF CONGRESS’.—The term ‘Member of Con-
4 gress’ in sections 994 and 997 means—

5 “(1) a United States Senator; and

6 “(2) a Representative in, or a Delegate or Resident Com-
7 missioner to, the House of Representatives.

8 “(e) ADDITIONAL DEFINITIONS.—As used in this sub-
9 chapter—

10 “(1) the term ‘executive branch’ includes each executive
11 agency as defined in title 5, and any other entity or admin-
12 istrative unit in the executive branch;

13 “(2) the term ‘judicial branch’ means the Supreme Court
14 of the United States; the United States courts of appeals;
15 the United States district courts; the Court of International
16 Trade; the United States bankruptcy courts; any court cre-
17 ated pursuant to article I of the United States Constitu-
18 tion, including the Court of Appeals for the Armed Forces,
19 the United States Court of Federal Claims, and the United
20 States Tax Court, but not including a court of a territory
21 or possession of the United States; the Federal Judicial
22 Center; and any other agency, office, or entity in the judi-
23 cial branch; and

24 “(3) the term ‘legislative branch’ means—

25 “(A) the Congress; and

26 “(B) the Office of the Architect of the Capitol, the
27 United States Botanic Garden, the Government Ac-
28 countability Office, the Government Printing Office, the
29 Library of Congress, the Office of Technology Assess-
30 ment, the Congressional Budget Office, the United
31 States Capitol Police, and any other agency, entity, of-
32 fice, or commission established in the legislative
33 branch.

1 **“§ 993. Compensation to Members of Congress, of-**
 2 **ficers, and others in matters affecting the**
 3 **Government**

4 “(a) FEDERAL MATTERS.—Whoever, otherwise than as pro-
 5 vided by law for the proper discharge of official duties—

6 “(1) demands, seeks, receives, accepts, or agrees to re-
 7 ceive or accept any compensation for any representational
 8 services, as agent or attorney or otherwise, rendered or to
 9 be rendered either personally or by another—

10 “(A) at a time when such person is a Member of
 11 Congress, Member of Congress Elect, Delegate, Dele-
 12 gate Elect, Resident Commissioner, or Resident Com-
 13 missioner Elect; or

14 “(B) at a time when such person is an officer or em-
 15 ployee or Federal judge of the United States in the ex-
 16 ecutive, legislative, or judicial branch of the Govern-
 17 ment, or in any agency of the United States,

18 in relation to any proceeding, application, request for a rul-
 19 ing or other determination, contract, claim, controversy,
 20 charge, accusation, arrest, or other particular matter in
 21 which the United States is a party or has a direct and sub-
 22 stantial interest, before any department, agency, court,
 23 court-martial, officer, or any civil, military, or naval com-
 24 mission; or

25 “(2) knowingly gives, promises, or offers any compensa-
 26 tion for any such representational services rendered or to
 27 be rendered at a time when the person to whom the com-
 28 pensation is given, promised, or offered, is or was such a
 29 Member, Member Elect, Delegate, Delegate Elect, Commis-
 30 sioner, Commissioner Elect, Federal judge, officer, or em-
 31 ployee;

32 shall be subject to the penalties set forth in section 216 of this
 33 title.

34 “(b) DISTRICT OF COLUMBIA.—Whoever, otherwise than as
 35 provided by law for the proper discharge of official duties—

36 “(1) demands, seeks, receives, accepts, or agrees to re-
 37 ceive or accept any compensation for any representational

1 services, as agent or attorney or otherwise, rendered or to
2 be rendered either personally or by another, at a time when
3 such person is an officer or employee of the District of Co-
4 lumbia, in relation to any proceeding, application, request
5 for a ruling or other determination, contract, claim, con-
6 troversy, charge, accusation, arrest, or other particular
7 matter in which the District of Columbia is a party or has
8 a direct and substantial interest, before any department,
9 agency, court, officer, or commission; or

10 “(2) knowingly gives, promises, or offers any compensa-
11 tion for any such representational services rendered or to
12 be rendered at a time when the person to whom the com-
13 pensation is given, promised, or offered, is or was an officer
14 or employee of the District of Columbia;

15 shall be subject to the penalties set forth in section 216 of this
16 title.

17 “(c) SPECIAL GOVERNMENT EMPLOYEES.—A special Gov-
18 ernment employee shall be subject to subsections (a) and (b)
19 only in relation to a particular matter involving a specific party
20 or parties—

21 “(1) in which such employee has at any time participated
22 personally and substantially as a Government employee or
23 as a special Government employee through decision, ap-
24 proval, disapproval, recommendation, the rendering of ad-
25 vice, investigation or otherwise; or

26 “(2) which is pending in the department or agency of the
27 Government in which such employee is serving except that
28 paragraph (2) of this subsection shall not apply in the case
29 of a special Government employee who has served in such
30 department or agency no more than sixty days during the
31 immediately preceding period of three hundred and sixty-
32 five consecutive days.

33 “(d) EXCLUSION.—Nothing in this section prevents an offi-
34 cer or employee, including a special Government employee,
35 from acting, with or without compensation, as agent or attor-
36 ney for or otherwise representing his parents, spouse, child, or
37 any person for whom, or for any estate for which, he is serving

1 as guardian, executor, administrator, trustee, or other personal
2 fiduciary except—

3 “(1) in those matters in which he has participated per-
4 sonally and substantially as a Government employee or as
5 a special Government employee through decision, approval,
6 disapproval, recommendation, the rendering of advice, in-
7 vestigation, or otherwise; or

8 “(2) in those matters that are the subject of his official
9 responsibility,

10 subject to approval by the Government official responsible for
11 appointment to his position.

12 “(e) CERTIFICATION OF NATIONAL INTEREST.—Nothing in
13 this section prevents a special Government employee from act-
14 ing as agent or attorney for another person in the performance
15 of work under a grant by, or a contract with or for the benefit
16 of, the United States if the head of the department or agency
17 concerned with the grant or contract certifies in writing that
18 the national interest so requires and publishes such certifi-
19 cation in the Federal Register.

20 “(f) TESTIMONY AND STATEMENTS.—Nothing in this section
21 prevents an individual from giving testimony under oath or
22 from making statements required to be made under penalty of
23 perjury.

24 **“§ 994. Practice in United States Court of Federal**
25 **Claims or the United States Court of Ap-**
26 **peals for the Federal Circuit by Members**
27 **of Congress**

28 “Whoever, being a Member of Congress or Member of Con-
29 gress Elect, practices in the United States Court of Federal
30 Claims or the United States Court of Appeals for the Federal
31 Circuit shall be subject to the penalties set forth in section
32 1004 of this title.

33 **“§ 995. Activities of officers and employees in**
34 **claims against and other matters affecting**
35 **the Government**

36 “(a) FEDERAL MATTERS.—Whoever, being an officer or em-
37 ployee of the United States in the executive, legislative, or judi-

1 cial branch of the Government or in any agency of the United
2 States, other than in the proper discharge of his official du-
3 ties—

4 “(1) acts as agent or attorney for prosecuting any claim
5 against the United States, or receives any gratuity, or any
6 share of or interest in any such claim, in consideration of
7 assistance in the prosecution of such claim; or

8 “(2) acts as agent or attorney for anyone before any de-
9 partment, agency, court, court-martial, officer, or civil,
10 military, or naval commission in connection with any cov-
11 ered matter in which the United States is a party or has
12 a direct and substantial interest;

13 shall be subject to the penalties set forth in section 216 of this
14 title.

15 “(b) DISTRICT OF COLUMBIA.—Whoever, being an officer or
16 employee of the District of Columbia or an officer or employee
17 of the Office of the United States Attorney for the District of
18 Columbia, otherwise than in the proper discharge of official du-
19 ties—

20 “(1) acts as agent or attorney for prosecuting any claim
21 against the District of Columbia, or receives any gratuity,
22 or any share of or interest in any such claim in consider-
23 ation of assistance in the prosecution of such claim; or

24 “(2) acts as agent or attorney for anyone before any de-
25 partment, agency, court, officer, or commission in connec-
26 tion with any covered matter in which the District of Co-
27 lumbia is a party or has a direct and substantial interest;

28 shall be subject to the penalties set forth in section 216 of this
29 title.

30 “(c) SPECIAL GOVERNMENT EMPLOYEES.—A special Gov-
31 ernment employee shall be subject to subsections (a) and (b)
32 only in relation to a covered matter involving a specific party
33 or parties—

34 “(1) in which he has at any time participated personally
35 and substantially as a Government employee or special
36 Government employee through decision, approval, dis-

1 approval, recommendation, the rendering of advice, inves-
2 tigation, or otherwise; or

3 “(2) which is pending in the department or agency of the
4 Government in which he is serving.

5 Paragraph (2) shall not apply in the case of a special Govern-
6 ment employee who has served in such department or agency
7 no more than sixty days during the immediately preceding pe-
8 riod of three hundred and sixty-five consecutive days.

9 “(d) EXCLUSION WITH RESPECT TO CERTAIN PERSONS.—

10 “(1) GENERALLY.—Nothing in subsection (a) or (b) pre-
11 vents an officer or employee, if not inconsistent with the
12 faithful performance of that officer’s or employee’s duties,
13 from acting without compensation as agent or attorney for,
14 or otherwise representing—

15 “(A) any person who is the subject of disciplinary,
16 loyalty, or other personnel administration proceedings
17 in connection with those proceedings; or

18 “(B) except as provided in paragraph (2), any coop-
19 erative, voluntary, professional, recreational, or similar
20 organization or group not established or operated for
21 profit, if a majority of the organization’s or group’s
22 members are current officers or employees of the
23 United States or of the District of Columbia, or their
24 spouses or dependent children.

25 “(2) EXCEPTION.—Paragraph (1)(B) does not apply
26 with respect to a covered matter that—

27 “(A) is a claim under subsection (a)(1) or (b)(1);

28 “(B) is a judicial or administrative proceeding where
29 the organization or group is a party; or

30 “(C) involves a grant, contract, or other agreement
31 (including a request for any such grant, contract, or
32 agreement) providing for the disbursement of Federal
33 funds to the organization or group.

34 “(e) EXCLUSION WITH RESPECT FAMILY MEMBERS.—Noth-
35 ing in subsection (a) or (b) prevents an officer or employee, in-
36 cluding a special Government employee, from acting, with or
37 without compensation, as agent or attorney for, or otherwise

1 representing, his parents, spouse, child, or any person for
2 whom, or for any estate for which, he is serving as guardian,
3 executor, administrator, trustee, or other personal fiduciary ex-
4 cept—

5 “(1) in those matters in which he has participated per-
6 sonally and substantially as a Government employee or spe-
7 cial Government employee through decision, approval, dis-
8 approval, recommendation, the rendering of advice, inves-
9 tigation, or otherwise, or

10 “(2) in those matters which are the subject of his official
11 responsibility,
12 subject to approval by the Government official responsible for
13 appointment to his position.

14 “(f) CERTIFICATION OF NATIONAL INTEREST.—Nothing in
15 subsection (a) or (b) prevents a special Government employee
16 from acting as agent or attorney for another person in the per-
17 formance of work under a grant by, or a contract with or for
18 the benefit of, the United States if the head of the department
19 or agency concerned with the grant or contract certifies in writ-
20 ing that the national interest so requires and publishes such
21 certification in the Federal Register.

22 “(g) TESTIMONY AND STATEMENTS.—Nothing in this sec-
23 tion prevents an officer or employee from giving testimony
24 under oath or from making statements required to be made
25 under penalty for perjury or contempt.

26 “(h) DEFINITION.—For the purpose of this section, the term
27 ‘covered matter’ means any judicial or other proceeding, appli-
28 cation, request for a ruling or other determination, contract,
29 claim, controversy, investigation, charge, accusation, arrest, or
30 other particular matter.

31 “(i) ADDITIONAL EXCLUSIONS.—Nothing in this section pre-
32 vents an employee from acting pursuant to—

33 “(1) chapter 71 of title 5;

34 “(2) section 1004 or chapter 12 of title 39;

35 “(3) section 3 of the Tennessee Valley Authority Act of
36 1933 (16 U.S.C. 831b);

1 “(4) chapter 10 of title I of the Foreign Service Act of
2 1980 (22 U.S.C. 4104 et seq.); or

3 “(5) any provision of any other Federal or District of
4 Columbia law that authorizes labor-management relations
5 between an agency or instrumentality of the United States
6 or the District of Columbia and any labor organization that
7 represents its employees.

8 **“§ 996. Exemption of retired officers of the uni-**
9 **formed services**

10 “Sections 993 and 995 of this title shall not apply to a re-
11 tired officer of the uniformed services of the United States
12 while not on active duty and not otherwise an officer or em-
13 ployee of the United States, or to any person specially excepted
14 by Act of Congress.

15 **“§ 997. Restrictions on former officers, employees,**
16 **and elected officials of the executive and**
17 **legislative branches**

18 “(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF
19 THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

20 “(1) PERMANENT RESTRICTIONS ON REPRESENTATION
21 ON PARTICULAR MATTERS.—Any person who is an officer
22 or employee (including any special Government employee)
23 of the executive branch of the United States (including any
24 independent agency of the United States), or of the District
25 of Columbia, and who, after the termination of his or her
26 service or employment with the United States or the Dis-
27 trict of Columbia, knowingly makes, with the intent to in-
28 fluence, any communication to or appearance before any of-
29 ficer or employee of any department, agency, court, or
30 court-martial of the United States or the District of Co-
31 lumbia, on behalf of any other person (except the United
32 States or the District of Columbia) in connection with a
33 particular matter—

34 “(A) in which the United States or the District of
35 Columbia is a party or has a direct and substantial in-
36 terest,

1 “(B) in which the person participated personally and
2 substantially as such officer or employee, and

3 “(C) which involved a specific party or specific par-
4 ties at the time of such participation,

5 shall be punished as provided in section 1004 of this title.

6 “(2) TWO-YEAR RESTRICTIONS CONCERNING PAR-
7 TICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—

8 Any person subject to the restrictions contained in para-
9 graph (1) who, within 2 years after the termination of his
10 or her service or employment with the United States or the
11 District of Columbia, knowingly makes, with the intent to
12 influence, any communication to or appearance before any
13 officer or employee of any department, agency, court, or
14 court-martial of the United States or the District of Co-
15 lumbia, on behalf of any other person (except the United
16 States or the District of Columbia), in connection with a
17 particular matter—

18 “(A) in which the United States or the District of
19 Columbia is a party or has a direct and substantial in-
20 terest,

21 “(B) which such person knows or reasonably should
22 know was actually pending under his or her official re-
23 sponsibility as such officer or employee within a period
24 of 1 year before the termination of his or her service
25 or employment with the United States or the District
26 of Columbia, and

27 “(C) which involved a specific party or specific par-
28 ties at the time it was so pending,

29 shall be punished as provided in section 1004.

30 “(3) CLARIFICATION OF RESTRICTIONS.—The restric-
31 tions contained in paragraphs (1) and (2) shall apply—

32 “(A) in the case of an officer or employee of the ex-
33 ecutive branch of the United States (including any
34 independent agency), only with respect to communica-
35 tions to or appearances before any officer or employee
36 of any department, agency, court, or court-martial of
37 the United States on behalf of any other person (except

1 the United States), and only with respect to a matter
2 in which the United States is a party or has a direct
3 and substantial interest; and

4 “(B) in the case of an officer or employee of the Dis-
5 trict of Columbia, only with respect to communications
6 to or appearances before any officer or employee of any
7 department, agency, or court of the District of Colum-
8 bia on behalf of any other person (except the District
9 of Columbia), and only with respect to a matter in
10 which the District of Columbia is a party or has a di-
11 rect and substantial interest.

12 “(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

13 “(1) IN GENERAL.—Any person who is a former officer
14 or employee of the executive branch of the United States
15 (including any independent agency) and is subject to the
16 restrictions contained in subsection (a)(1), or any person
17 who is a former officer or employee of the legislative branch
18 or a former Member of Congress, who personally and sub-
19 stantially participated in any ongoing trade or treaty nego-
20 tiation on behalf of the United States within the 1-year pe-
21 riod preceding the date on which his or her service or em-
22 ployment with the United States terminated, and who had
23 access to information concerning such trade or treaty nego-
24 tiation which is exempt from disclosure under section 552
25 of title 5, which is so designated by the appropriate depart-
26 ment or agency, and which the person knew or should have
27 known was so designated, shall not, on the basis of that in-
28 formation, knowingly represent, aid, or advise any other
29 person (except the United States) concerning such ongoing
30 trade or treaty negotiation for a period of 1 year after his
31 or her service or employment with the United States termi-
32 nates. Any person who violates this subsection shall be pun-
33 ished as provided in section 1004 of this title.

34 “(2) DEFINITION.—For purposes of this paragraph—

35 “(A) the term ‘trade negotiation’ means negotiations
36 which the President determines to undertake to enter
37 into a trade agreement pursuant to section 1102 of the

1 Omnibus Trade and Competitiveness Act of 1988, and
2 does not include any action taken before that deter-
3 mination is made; and

4 “(B) the term ‘treaty’ means an international agree-
5 ment made by the President that requires the advice
6 and consent of the Senate.

7 “(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PER-
8 SONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT
9 AGENCIES.—

10 “(1) RESTRICTIONS.—In addition to the restrictions set
11 forth in subsections (a) and (b), any person who is an offi-
12 cer or employee (including any special Government em-
13 ployee) of the executive branch of the United States (in-
14 cluding an independent agency), who is referred to in para-
15 graph (2), and who, within 1 year after the termination of
16 his or her service or employment as such officer or em-
17 ployee, knowingly makes, with the intent to influence, any
18 communication to or appearance before any officer or em-
19 ployee of the department or agency in which such person
20 served within 1 year before such termination, on behalf of
21 any other person (except the United States), in connection
22 with any matter on which such person seeks official action
23 by any officer or employee of such department or agency,
24 shall be punished as provided in section 1004 of this title.

25 “(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A)
26 Paragraph (1) shall apply to a person (other than a person
27 subject to the restrictions of subsection (d))—

28 “(i) employed at a rate of pay specified in or fixed
29 according to subchapter II of chapter 53 of title 5,

30 “(ii) employed in a position which is not referred to
31 in clause (i) and for which that person is paid at a rate
32 of basic pay which is equal to or greater than 86.5 per-
33 cent of the rate of basic pay for level II of the Execu-
34 tive Schedule, or, for a period of 2 years following the
35 enactment of the National Defense Authorization Act
36 for Fiscal Year 2004, a person who, on the day prior
37 to the enactment of that Act, was employed in a posi-

1 tion which is not referred to in clause (i) and for which
2 the rate of basic pay, exclusive of any locality-based
3 pay adjustment under section 5304 or section 5304a of
4 title 5, was equal to or greater than the rate of basic
5 pay payable for level 5 of the Senior Executive Service
6 on the day prior to the enactment of that Act,

7 “(iii) appointed by the President to a position under
8 section 105(a)(2)(B) of title 3 or by the Vice President
9 to a position under section 106(a)(1)(B) of title 3,

10 “(iv) employed in a position which is held by an ac-
11 tive duty commissioned officer of the uniformed serv-
12 ices who is serving in a grade or rank for which the
13 pay grade (as specified in section 201 of title 37) is pay
14 grade O-7 or above; or

15 “(v) assigned from a private sector organization to
16 an agency under chapter 37 of title 5.

17 “(B) Paragraph (1) shall not apply to a special Govern-
18 ment employee who serves less than 60 days in the 1-year
19 period before his or her service or employment as such em-
20 ployee terminates.

21 “(C) At the request of a department or agency, the Di-
22 rector of the Office of Government Ethics may waive the
23 restrictions contained in paragraph (1) with respect to any
24 position, or category of positions, referred to in clause (ii)
25 or (iv) of subparagraph (A), in such department or agency
26 if the Director determines that—

27 “(i) the imposition of the restrictions with respect to
28 such position or positions would create an undue hard-
29 ship on the department or agency in obtaining qualified
30 personnel to fill such position or positions, and

31 “(ii) granting the waiver would not create the poten-
32 tial for use of undue influence or unfair advantage.

33 “(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE
34 EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

35 “(1) RESTRICTIONS.—In addition to the restrictions set
36 forth in subsections (a) and (b), any person who—

1 “(A) serves in the position of Vice President of the
2 United States,

3 “(B) is employed in a position in the executive
4 branch of the United States (including any independent
5 agency) at a rate of pay payable for level I of the Exec-
6utive Schedule or employed in a position in the Execu-
7tive Office of the President at a rate of pay payable for
8 level II of the Executive Schedule, or

9 “(C) is appointed by the President to a position
10 under section 105(a)(2)(A) of title 3 or by the Vice
11 President to a position under section 106(a)(1)(A) of
12 title 3,

13 and who, within 1 year after the termination of that per-
14 son’s service in that position, knowingly makes, with the in-
15 tent to influence, any communication to or appearance be-
16 fore any person described in paragraph (2), on behalf of
17 any other person (except the United States), in connection
18 with any matter on which such person seeks official action
19 by any officer or employee of the executive branch of the
20 United States, shall be punished as provided in section
21 1004 of this title.

22 “(2) PERSONS WHO MAY NOT BE CONTACTED.—The per-
23 sons referred to in paragraph (1) with respect to appear-
24 ances or communications by a person in a position de-
25 scribed in subparagraph (A), (B), or (C) of paragraph (1)
26 are—

27 “(A) any officer or employee of any department or
28 agency in which such person served in such position
29 within a period of 1 year before such person’s service
30 or employment with the United States Government ter-
31 minated, and

32 “(B) any person appointed to a position in the exec-
33utive branch which is listed in section 5312, 5313,
34 5314, 5315, or 5316 of title 5.

35 “(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFI-
36 CERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

1 “(1) MEMBERS OF CONGRESS AND ELECTED OFFI-
2 CERS.—(A) Any person who is a Member of Congress or
3 an elected officer of either House of Congress and who,
4 within 1 year after that person leaves office, knowingly
5 makes, with the intent to influence, any communication to
6 or appearance before any of the persons described in sub-
7 paragraph (B) or (C), on behalf of any other person (ex-
8 cept the United States) in connection with any matter on
9 which such former Member of Congress or elected officer
10 seeks action by a Member, officer, or employee of either
11 House of Congress, in his or her official capacity, shall be
12 punished as provided in section 1004 of this title.

13 “(B) The persons referred to in subparagraph (A) with
14 respect to appearances or communications by a former
15 Member of Congress are any Member, officer, or employee
16 of either House of Congress, and any employee of any other
17 legislative office of the Congress.

18 “(C) The persons referred to in subparagraph (A) with
19 respect to appearances or communications by a former
20 elected officer are any Member, officer, or employee of the
21 House of Congress in which the elected officer served.

22 “(2) PERSONAL STAFF.—(A) Any person who is an em-
23 ployee of a Senator or an employee of a Member of the
24 House of Representatives and who, within 1 year after the
25 termination of that employment, knowingly makes, with the
26 intent to influence, any communication to or appearance
27 before any of the persons described in subparagraph (B),
28 on behalf of any other person (except the United States)
29 in connection with any matter on which such former em-
30 ployee seeks action by a Member, officer, or employee of ei-
31 ther House of Congress, in his or her official capacity, shall
32 be punished as provided in section 1004 of this title.

33 “(B) The persons referred to in subparagraph (A) with
34 respect to appearances or communications by a person who
35 is a former employee are the following:

36 “(i) The Senator or Member of the House of Rep-
37 resentatives for whom that person was an employee.

1 “(ii) Any employee of that Senator or Member of the
2 House of Representatives.

3 “(3) COMMITTEE STAFF.—Any person who is an em-
4 ployee of a committee of Congress and who, within 1 year
5 after the termination of that person’s employment on such
6 committee, knowingly makes, with the intent to influence,
7 any communication to or appearance before any person who
8 is a Member or an employee of that committee or who was
9 a Member of the committee in the year immediately prior
10 to the termination of such person’s employment by the
11 committee, on behalf of any other person (except the
12 United States) in connection with any matter on which
13 such former employee seeks action by a Member, officer, or
14 employee of either House of Congress, in his or her official
15 capacity, shall be punished as provided in section 1004 of
16 this title.

17 “(4) LEADERSHIP STAFF.—(A) Any person who is an
18 employee on the leadership staff of the House of Represent-
19 atives or an employee on the leadership staff of the Senate
20 and who, within 1 year after the termination of that per-
21 son’s employment on such staff, knowingly makes, with the
22 intent to influence, any communication to or appearance
23 before any of the persons described in subparagraph (B),
24 on behalf of any other person (except the United States)
25 in connection with any matter on which such former em-
26 ployee seeks action by a Member, officer, or employee of ei-
27 ther House of Congress, in his or her official capacity, shall
28 be punished as provided in section 1004 of this title.

29 “(B) The persons referred to in subparagraph (A) with
30 respect to appearances or communications by a former em-
31 ployee are the following:

32 “(i) In the case of a former employee on the leader-
33 ship staff of the House of Representatives, those per-
34 sons are any Member of the leadership of the House
35 of Representatives and any employee on the leadership
36 staff of the House of Representatives.

1 “(ii) In the case of a former employee on the leader-
2 ship staff of the Senate, those persons are any Member
3 of the leadership of the Senate and any employee on
4 the leadership staff of the Senate.

5 “(5) OTHER LEGISLATIVE OFFICES.—(A) Any person
6 who is an employee of any other legislative office of the
7 Congress and who, within 1 year after the termination of
8 that person’s employment in such office, knowingly makes,
9 with the intent to influence, any communication to or ap-
10 pearance before any of the persons described in subpara-
11 graph (B), on behalf of any other person (except the
12 United States) in connection with any matter on which
13 such former employee seeks action by any officer or em-
14 ployee of such office, in his or her official capacity, shall
15 be punished as provided in section 1004 of this title.

16 “(B) The persons referred to in subparagraph (A) with
17 respect to appearances or communications by a former em-
18 ployee are the employees and officers of the former legisla-
19 tive office of the Congress of the former employee.

20 “(6) LIMITATION ON RESTRICTIONS.—(A) The restric-
21 tions contained in paragraphs (2), (3), and (4) apply only
22 to acts by a former employee who, for at least 60 days, in
23 the aggregate, during the 1-year period before that former
24 employee’s service as such employee terminated, was paid
25 a rate of basic pay equal to or greater than an amount
26 which is 75 percent of the basic rate of pay payable for a
27 Member of the House of Congress in which such employee
28 was employed.

29 “(B) The restrictions contained in paragraph (5) apply
30 only to acts by a former employee who, for at least 60
31 days, in the aggregate, during the 1-year period before that
32 former employee’s service as such employee terminated, was
33 employed in a position for which the rate of basic pay, ex-
34 clusive of any locality-based pay adjustment under section
35 5302 of title 5 (or any comparable adjustment pursuant to
36 interim authority of the President), is equal to or greater

1 than the basic rate of pay payable for level V of the Senior
2 Executive Service.

3 “(7) DEFINITIONS.—As used in this subsection—

4 “(A) the term ‘committee of Congress’ includes
5 standing committees, joint committees, and select com-
6 mittees;

7 “(B) a person is an employee of a House of Congress
8 if that person is an employee of the Senate or an em-
9 ployee of the House of Representatives;

10 “(C) the term ‘employee of the House of Representa-
11 tives’ means an employee of a Member of the House of
12 Representatives, an employee of a committee of the
13 House of Representatives, an employee of a joint com-
14 mittee of the Congress whose pay is disbursed by the
15 Clerk of the House of Representatives, and an em-
16 ployee on the leadership staff of the House of Rep-
17 resentatives;

18 “(D) the term ‘employee of the Senate’ means an
19 employee of a Senator, an employee of a committee of
20 the Senate, an employee of a joint committee of the
21 Congress whose pay is disbursed by the Secretary of
22 the Senate, and an employee on the leadership staff of
23 the Senate;

24 “(E) a person is an employee of a Member of the
25 House of Representatives if that person is an employee
26 of a Member of the House of Representatives under the
27 clerk hire allowance;

28 “(F) a person is an employee of a Senator if that
29 person is an employee in a position in the office of a
30 Senator;

31 “(G) the term ‘employee of any other legislative of-
32 fice of the Congress’ means an officer or employee of
33 the Architect of the Capitol, the United States Botanic
34 Garden, the Government Accountability Office, the
35 Government Printing Office, the Library of Congress,
36 the Office of Technology Assessment, the Congressional
37 Budget Office, the Copyright Royalty Tribunal, the

1 United States Capitol Police, and any other agency, en-
2 tity, or office in the legislative branch not covered by
3 paragraph (1), (2), (3), or (4) of this subsection;

4 “(H) the term ‘employee on the leadership staff of
5 the House of Representatives’ means an employee of
6 the office of a Member of the leadership of the House
7 of Representatives described in subparagraph (L), and
8 any elected minority employee of the House of Rep-
9 resentatives;

10 “(I) the term ‘employee on the leadership staff of the
11 Senate’ means an employee of the office of a Member
12 of the leadership of the Senate described in subpara-
13 graph (M);

14 “(J) the term ‘Member of Congress’ means a Sen-
15 ator or a Member of the House of Representatives;

16 “(K) the term ‘Member of the House of Representa-
17 tives’ means a Representative in, or a Delegate or Resi-
18 dent Commissioner to, the Congress;

19 “(L) the term ‘Member of the leadership of the
20 House of Representatives’ means the Speaker, majority
21 leader, minority leader, majority whip, minority whip,
22 chief deputy majority whip, chief deputy minority whip,
23 chairman of the Democratic Steering Committee, chair-
24 man and vice chairman of the Democratic Caucus,
25 chairman, vice chairman, and secretary of the Repub-
26 lican Conference, chairman of the Republican Research
27 Committee, and chairman of the Republican Policy
28 Committee, of the House of Representatives (or any
29 similar position created on or after the effective date
30 set forth in section 102(a) of the Ethics Reform Act of
31 1989); and

32 “(M) the term ‘Member of the leadership of the Sen-
33 ate’ means the Vice President, and the President pro
34 tempore, Deputy President pro tempore, majority lead-
35 er, minority leader, majority whip, minority whip,
36 chairman and secretary of the Conference of the Major-
37 ity, chairman and secretary of the Conference of the

1 Minority, chairman and co-chairman of the Majority
2 Policy Committee, and chairman of the Minority Policy
3 Committee, of the Senate (or any similar position cre-
4 ated on or after the effective date set forth in section
5 102(a) of the Ethics Reform Act of 1989).

6 “(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

7 “(1) RESTRICTIONS.—Any person who is subject to the
8 restrictions contained in subsection (c), (d), or (e) and who
9 knowingly, within 1 year after leaving the position, office,
10 or employment referred to in such subsection—

11 “(A) represents a foreign entity before any officer or
12 employee of any department or agency of the United
13 States with the intent to influence a decision of such
14 officer or employee in carrying out his or her official
15 duties, or

16 “(B) aids or advises a foreign entity with the intent
17 to influence a decision of any officer or employee of any
18 department or agency of the United States, in carrying
19 out his or her official duties,

20 shall be punished as provided in section 1004 of this title.

21 “(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—

22 With respect to a person who is the United States Trade
23 Representative or Deputy United States Trade Representa-
24 tive, the restrictions described in paragraph (1) shall apply
25 to representing, aiding, or advising foreign entities at any
26 time after the termination of that person’s service as the
27 United States Trade Representative.

28 “(3) DEFINITION.—For purposes of this subsection, the
29 term ‘foreign entity’ means the government of a foreign
30 country as defined in section 1(e) of the Foreign Agents
31 Registration Act of 1938, as amended, or a foreign political
32 party as defined in section 1(f) of that Act.

33 “(g) SPECIAL RULES FOR DETAILEES.—For purposes of this
34 section, a person who is detailed from one department, agency,
35 or other entity to another department, agency, or other entity
36 shall, during the period such person is detailed, be deemed to

1 be an officer or employee of both departments, agencies, or
2 such entities.

3 “(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES
4 AND BUREAUS.—

5 “(1) DESIGNATIONS.—For purposes of subsection (c)
6 and except as provided in paragraph (2), whenever the Di-
7 rector of the Office of Government Ethics determines that
8 an agency or bureau within a department or agency in the
9 executive branch exercises functions which are distinct and
10 separate from the remaining functions of the department or
11 agency and that there exists no potential for use of undue
12 influence or unfair advantage based on past Government
13 service, the Director shall by rule designate such agency or
14 bureau as a separate department or agency. On an annual
15 basis the Director of the Office of Government Ethics shall
16 review the designations and determinations made under
17 this subparagraph and, in consultation with the department
18 or agency concerned, make such additions and deletions as
19 are necessary. Departments and agencies shall cooperate to
20 the fullest extent with the Director of the Office of Govern-
21 ment Ethics in the exercise of his or her responsibilities
22 under this paragraph.

23 “(2) INAPPLICABILITY OF DESIGNATIONS.—No agency or
24 bureau within the Executive Office of the President may be
25 designated under paragraph (1) as a separate department
26 or agency. No designation under paragraph (1) shall apply
27 to persons referred to in subsection (c)(2)(A)(i) or (iii).

28 “(i) DEFINITIONS.—For purposes of this section—

29 “(1) the term ‘officer or employee’, when used to de-
30 scribe the person to whom a communication is made or be-
31 fore whom an appearance is made, with the intent to influ-
32 ence, shall include—

33 “(A) in subsections (a), (c), and (d), the President
34 and the Vice President; and

35 “(B) in subsection (f), the President, the Vice Presi-
36 dent, and Members of Congress;

1 “(2) the term ‘participated’ means an action taken as an
2 officer or employee through decision, approval, disapproval,
3 recommendation, the rendering of advice, investigation, or
4 other such action; and

5 “(3) the term ‘particular matter’ includes any investiga-
6 tion, application, request for a ruling or determination,
7 rulemaking, contract, controversy, claim, charge, accusa-
8 tion, arrest, or judicial or other proceeding.

9 “(j) EXCEPTIONS.—

10 “(1) OFFICIAL GOVERNMENT DUTIES.—The restrictions
11 contained in this section shall not apply to acts done in car-
12 rying out official duties on behalf of the United States or
13 the District of Columbia or as an elected official of a State
14 or local government.

15 “(2) STATE AND LOCAL GOVERNMENTS AND INSTITU-
16 TIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions
17 contained in subsections (c), (d), and (e) shall not apply to
18 acts done in carrying out official duties as an employee
19 of—

20 “(A) an agency or instrumentality of a State or local
21 government if the appearance, communication, or rep-
22 resentation is on behalf of such government, or

23 “(B) an accredited, degree-granting institution of
24 higher education, as defined in section 101 of the
25 Higher Education Act of 1965, or a hospital or medical
26 research organization, exempted and defined under sec-
27 tion 501(c)(3) of the Internal Revenue Code of 1986,
28 if the appearance, communication, or representation is
29 on behalf of such institution, hospital, or organization.

30 “(3) INTERNATIONAL ORGANIZATIONS.—The restrictions
31 contained in this section shall not apply to an appearance
32 or communication on behalf of, or advice or aid to, an
33 international organization in which the United States par-
34 ticipates, if the Secretary of State certifies in advance that
35 such activity is in the interests of the United States.

36 “(4) SPECIAL KNOWLEDGE.—The restrictions contained
37 in subsections (c), (d), and (e) shall not prevent an indi-

1 vidual from making or providing a statement, which is
2 based on the individual's own special knowledge in the par-
3 ticular area that is the subject of the statement, if no com-
4 pensation is thereby received.

5 “(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL
6 INFORMATION.—The restrictions contained in subsections
7 (a), (c), and (d) shall not apply with respect to the making
8 of communications solely for the purpose of furnishing sci-
9 entific or technological information, if such communications
10 are made under procedures acceptable to the department or
11 agency concerned or if the head of the department or agen-
12 cy concerned with the particular matter, in consultation
13 with the Director of the Office of Government Ethics,
14 makes a certification, published in the Federal Register,
15 that the former officer or employee has outstanding quali-
16 fications in a scientific, technological, or other technical
17 discipline, and is acting with respect to a particular matter
18 which requires such qualifications, and that the national in-
19 terest would be served by the participation of the former
20 officer or employee. For purposes of this paragraph, the
21 term ‘officer or employee’ includes the Vice President.

22 “(6) EXCEPTION FOR TESTIMONY.—Nothing in this sec-
23 tion shall prevent an individual from giving testimony
24 under oath, or from making statements required to be
25 made under penalty of perjury. Notwithstanding the pre-
26 ceding sentence—

27 “(A) a former officer or employee of the executive
28 branch of the United States (including any independent
29 agency) who is subject to the restrictions contained in
30 subsection (a)(1) with respect to a particular matter
31 may not, except pursuant to court order, serve as an
32 expert witness for any other person (except the United
33 States) in that matter; and

34 “(B) a former officer or employee of the District of
35 Columbia who is subject to the restrictions contained in
36 subsection (a)(1) with respect to a particular matter
37 may not, except pursuant to court order, serve as an

1 expert witness for any other person (except the District
2 of Columbia) in that matter.

3 “(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—
4 (A) Except as provided in subparagraph (B), the restric-
5 tions contained in subsections (c), (d), and (e) shall not
6 apply to a communication or appearance made solely on be-
7 half of a candidate in his or her capacity as a candidate,
8 an authorized committee, a national committee, a national
9 Federal campaign committee, a State committee, or a polit-
10 ical party.

11 “(B) Subparagraph (A) shall not apply to—

12 “(i) any communication to, or appearance before, the
13 Federal Election Commission by a former officer or
14 employee of the Federal Election Commission; or

15 “(ii) a communication or appearance made by a per-
16 son who is subject to the restrictions contained in sub-
17 sections (c), (d), or (e) if, at the time of the commu-
18 nication or appearance, the person is employed by a
19 person or entity other than—

20 “(I) a candidate, an authorized committee, a na-
21 tional committee, a national Federal campaign
22 committee, a State committee, or a political party;
23 or

24 “(II) a person or entity who represents,
25 aids, or advises only persons or entities de-
26 scribed in subclause (I).

27 “(C) For purposes of this paragraph—

28 “(i) the term ‘candidate’ means any person who
29 seeks nomination for election, or election, to Federal or
30 State office or who has authorized others to explore on
31 his or her behalf the possibility of seeking nomination
32 for election, or election, to Federal or State office;

33 “(ii) the term ‘authorized committee’ means any po-
34 litical committee designated in writing by a candidate
35 as authorized to receive contributions or make expendi-
36 tures to promote the nomination for election, or the
37 election, of such candidate, or to explore the possibility

1 of seeking nomination for election, or the election, of
2 such candidate, except that a political committee that
3 receives contributions or makes expenditures to pro-
4 mote more than 1 candidate may not be designated as
5 an authorized committee for purposes of subparagraph
6 (A);

7 “(iii) the term ‘national committee’ means the orga-
8 nization which, by virtue of the bylaws of a political
9 party, is responsible for the day-to-day operation of
10 such political party at the national level;

11 “(iv) the term ‘national Federal campaign com-
12 mittee’ means an organization that, by virtue of the by-
13 laws of a political party, is established primarily for the
14 purpose of providing assistance, at the national level, to
15 candidates nominated by that party for election to the
16 office of Senator or Representative in, or Delegate or
17 Resident Commissioner to, the Congress;

18 “(v) the term ‘State committee’ means the organiza-
19 tion which, by virtue of the bylaws of a political party,
20 is responsible for the day-to-day operation of such po-
21 litical party at the State level;

22 “(vi) the term ‘political party’ means an association,
23 committee, or organization that nominates a candidate
24 for election to any Federal or State elected office whose
25 name appears on the election ballot as the candidate of
26 such association, committee, or organization; and

27 “(vii) the term ‘State’ means a State of the United
28 States, the District of Columbia, the Commonwealth of
29 Puerto Rico, and any territory or possession of the
30 United States.

31 “(k) WAIVER.—(1)(A) The President may grant a waiver of
32 a restriction imposed by this section to any officer or employee
33 described in paragraph (2) if the President determines and cer-
34 tifies in writing that it is in the public interest to grant the
35 waiver and that the services of the officer or employee are criti-
36 cally needed for the benefit of the Federal Government. Not
37 more than 25 officers and employees currently employed by the

1 Federal Government at any one time may have been granted
2 waivers under this paragraph.

3 “(B)(i) A waiver granted under this paragraph to any person
4 shall apply only with respect to activities engaged in by that
5 person after that person’s Federal Government employment is
6 terminated and only to that person’s employment at a Govern-
7 ment-owned, contractor operated entity with which the person
8 served as an officer or employee immediately before the per-
9 son’s Federal Government employment began.

10 “(ii) Notwithstanding clause (i), a waiver granted under this
11 paragraph to any person who was an officer or employee of
12 Lawrence Livermore National Laboratory, Los Alamos Na-
13 tional Laboratory, or Sandia National Laboratory immediately
14 before the person’s Federal Government employment began
15 shall apply to that person’s employment by any such national
16 laboratory after the person’s employment by the Federal Gov-
17 ernment is terminated.

18 “(2) Waivers under paragraph (1) may be granted only to
19 civilian officers and employees of the executive branch, other
20 than officers and employees in the Executive Office of the
21 President.

22 “(3) A certification under paragraph (1) shall take effect
23 upon its publication in the Federal Register and shall iden-
24 tify—

25 “(A) the officer or employee covered by the waiver by name
26 and by position, and

27 “(B) the reasons for granting the waiver.

28 A copy of the certification shall also be provided to the Director
29 of the Office of Government Ethics.

30 “(4) The President may not delegate the authority provided
31 by this subsection.

32 “(5)(A) Each person granted a waiver under this subsection
33 shall prepare reports, in accordance with subparagraph (B),
34 stating whether the person has engaged in activities otherwise
35 prohibited by this section for each six-month period described
36 in subparagraph (B), and if so, what those activities were.

1 “(B) A report under subparagraph (A) shall cover each six-
2 month period beginning on the date of the termination of the
3 person’s Federal Government employment (with respect to
4 which the waiver under this subsection was granted) and end-
5 ing two years after that date. Such report shall be filed with
6 the President and the Director of the Office of Government
7 Ethics not later than 60 days after the end of the six-month
8 period covered by the report. All reports filed with the Director
9 under this paragraph shall be made available for public inspec-
10 tion and copying.

11 “(C) If a person fails to file any report in accordance with
12 subparagraphs (A) and (B), the President shall revoke the
13 waiver and shall notify the person of the revocation. The rev-
14 ocation shall take effect upon the person’s receipt of the notifi-
15 cation and shall remain in effect until the report is filed.

16 “(D) Any person who is granted a waiver under this sub-
17 section shall be ineligible for appointment in the civil service
18 unless all reports required of such person by subparagraphs (A)
19 and (B) have been filed.

20 “(E) As used in this subsection, the term ‘civil service’ has
21 the meaning given that term in section 2101 of title 5.

22 “(1) CONTRACT ADVICE BY FORMER DETAILS.—Who-
23 ever, being an employee of a private sector organization as-
24 signed to an agency under chapter 37 of title 5, within one
25 year after the end of that assignment, knowingly represents
26 or aids, counsels, or assists in representing any other per-
27 son (except the United States) in connection with any con-
28 tract with that agency shall be punished as provided in sec-
29 tion 1004 of this title.

30 **“§ 998. Acts affecting a personal financial interest**

31 “(a) OFFENSE.—Except as permitted by subsection (b), who-
32 ever, being an officer or employee of the executive branch of
33 the United States Government, or of any independent agency
34 of the United States, a Federal Reserve bank director, officer,
35 or employee, or an officer or employee of the District of Colum-
36 bia, including a special Government employee, participates per-
37 sonally and substantially as a Government officer or employee,

1 through decision, approval, disapproval, recommendation, the
2 rendering of advice, investigation, or otherwise, in a judicial or
3 other proceeding, application, request for a ruling or other de-
4 termination, contract, claim, controversy, charge, accusation,
5 arrest, or other particular matter in which, to his knowledge,
6 he, his spouse, minor child, general partner, organization in
7 which he is serving as officer, director, trustee, general partner
8 or employee, or any person or organization with whom he is ne-
9 gotiating or has any arrangement concerning prospective em-
10 ployment, has a financial interest shall be subject to the pen-
11 alties set forth in section 1004 of this title.

12 “(b) EXCLUSIONS.—Subsection (a) shall not apply—

13 “(1) if the officer or employee first advises the Govern-
14 ment official responsible for appointment to his or her posi-
15 tion of the nature and circumstances of the judicial or
16 other proceeding, application, request for a ruling or other
17 determination, contract, claim, controversy, charge, accusa-
18 tion, arrest, or other particular matter and makes full dis-
19 closure of the financial interest and receives in advance a
20 written determination made by such official that the inter-
21 est is not so substantial as to be deemed likely to affect the
22 integrity of the services which the Government may expect
23 from such officer or employee;

24 “(2) if, by regulation issued by the Director of the Office
25 of Government Ethics, applicable to all or a portion of all
26 officers and employees covered by this section, and pub-
27 lished in the Federal Register, the financial interest has
28 been exempted from the requirements of subsection (a) as
29 being too remote or too inconsequential to affect the integ-
30 rity of the services of the Government officers or employees
31 to which such regulation applies;

32 “(3) in the case of a special Government employee serv-
33 ing on an advisory committee within the meaning of the
34 Federal Advisory Committee Act (including an individual
35 being considered for an appointment to such a position),
36 the official responsible for the employee’s appointment,
37 after review of the financial disclosure report filed by the

1 individual pursuant to the Ethics in Government Act of
2 1978, certifies in writing that the need for the individual's
3 services outweighs the potential for a conflict of interest
4 created by the financial interest involved; or

5 “(4) if the financial interest that would be affected by
6 the particular matter involved is that resulting solely from
7 the interest of the officer or employee, or his or her spouse
8 or minor child, in birthrights—

9 “(A) in an Indian tribe, band, nation, or other orga-
10 nized group or community, including any Alaska Native
11 village corporation as defined in or established pursu-
12 ant to the Alaska Native Claims Settlement Act, which
13 is recognized as eligible for the special programs and
14 services provided by the United States to Indians be-
15 cause of their status as Indians,

16 “(B) in an Indian allotment the title to which is held
17 in trust by the United States or which is inalienable by
18 the allottee without the consent of the United States,
19 or

20 “(C) in an Indian claims fund held in trust or ad-
21 ministered by the United States,

22 if the particular matter does not involve the Indian allot-
23 ment or claims fund or the Indian tribe, band, nation, or-
24 ganized group or community, or Alaska Native village cor-
25 poration as a specific party or parties.

26 “(c) DEEMING PROVISION.—(1) For the purpose of para-
27 graph (1) of subsection (b), in the case of class A and B direc-
28 tors of Federal Reserve banks, the Board of Governors of the
29 Federal Reserve System shall be deemed to be the Government
30 official responsible for appointment.

31 “(2) The potential availability of an exemption under any
32 particular paragraph of subsection (b) does not preclude an ex-
33 emption being granted pursuant to another paragraph of sub-
34 section (b).

35 “(d) PUBLIC AVAILABILITY.—

36 “(1) GENERALLY.—Upon request, a copy of any deter-
37 mination granting an exemption under subsection (b)(1) or

1 (b)(3) shall be made available to the public by the agency
2 granting the exemption pursuant to the procedures set
3 forth in section 105 of the Ethics in Government Act of
4 1978. In making such determination available, the agency
5 may withhold from disclosure any information contained in
6 the determination that would be exempt from disclosure
7 under section 552 of title 5. For purposes of determina-
8 tions under subsection (b)(3), the information describing
9 each financial interest shall be no more extensive than that
10 required of the individual in his or her financial disclosure
11 report under the Ethics in Government Act of 1978.

12 “(2) UNIFORM REGULATIONS.—The Office of Govern-
13 ment Ethics, after consultation with the Attorney General,
14 shall issue uniform regulations for the issuance of waivers
15 and exemptions under subsection (b) which shall—

16 “(A) list and describe exemptions; and

17 “(B) provide guidance with respect to the types of inter-
18 ests that are not so substantial as to be deemed likely to
19 affect the integrity of the services the Government may ex-
20 pect from the employee.

21 **“§ 999. Salary of Government officials and employ-**
22 **ees payable only by United States**

23 “(a) OFFENSE.—Whoever—

24 “(1) receives any salary, or any contribution to or sup-
25 plementation of salary, as compensation for his services as
26 an officer or employee of the executive branch of the
27 United States Government, of any independent agency of
28 the United States, or of the District of Columbia, from any
29 source other than the Government of the United States, ex-
30 cept as may be contributed out of the treasury of any
31 State, county, or municipality; or

32 “(2) Whoever, whether an individual, partnership, asso-
33 ciation, corporation, or other organization pays, makes any
34 contribution to, or in any way supplements, the salary of
35 any such officer or employee under circumstances which
36 would make its receipt a violation of this subsection;

1 shall be subject to the penalties set forth in section 1004 of
2 this title.

3 “(b) EXCLUSION.—Nothing herein prevents an officer or em-
4 ployee of the executive branch of the United States Govern-
5 ment, or of any independent agency of the United States, or
6 of the District of Columbia, from continuing to participate in
7 a bona fide pension, retirement, group life, health or accident
8 insurance, profit-sharing, stock bonus, or other employee wel-
9 fare or benefit plan maintained by a former employer.

10 “(c) SPECIAL GOVERNMENT EMPLOYEE.—This section does
11 not apply to a special Government employee or to an officer or
12 employee of the Government serving without compensation,
13 whether or not he is a special Government employee, or to any
14 person paying, contributing to, or supplementing his salary as
15 such.

16 “(d) PAYMENTS UNDER CHAPTER 41 of Title 5.—This sec-
17 tion does not prohibit payment or acceptance of contributions,
18 awards, or other expenses under the terms of chapter 41 of
19 title 5.

20 “(e) RELOCATION EXPENSES.—This section does not pro-
21 hibit the payment of actual relocation expenses incident to par-
22 ticipation, or the acceptance of same by a participant in an ex-
23 ecutive exchange or fellowship program in an executive agency,
24 if such program has been established by statute or Executive
25 order of the President, offers appointments not to exceed three
26 hundred and sixty-five days, and permits no extensions in ex-
27 cess of ninety additional days or, in the case of participants in
28 overseas assignments, in excess of 365 days.

29 “(f) INJURIES DURING CERTAIN OFFENSE.—This section
30 does not prohibit acceptance or receipt, by any officer or em-
31 ployee injured during the commission of an offense described
32 in section 102(7) or 102(8) of this title, of contributions or
33 payments from an organization which is described in section
34 501(c)(3) of the Internal Revenue Code of 1986 and which is
35 exempt from taxation under section 501(a) of such Code.

36 “(g) PRIVATE SECTOR ORGANIZATION.—

1 “(1) GENERALLY.—This section does not prohibit an
2 employee of a private sector organization, while assigned to
3 an agency under chapter 37 of title 5, from continuing to
4 receive pay and benefits from such organization in accord-
5 ance with such chapter.

6 “(2) DEFINITION.—As used in this subsection, the term
7 ‘agency’ means an agency (as defined by section 3701 of
8 title 5) and the Office of the Chief Technology Officer of
9 the District of Columbia.

10 “(h) RESERVER COMPONENTS OF ARMED FORCES.—This
11 section does not prohibit a member of the reserve components
12 of the armed forces on active duty pursuant to a call or order
13 to active duty under a provision of law referred to in section
14 101(a)(13) of title 10 from receiving from any person that em-
15 ployed such member before the call or order to active duty any
16 payment of any part of the salary or wages that such person
17 would have paid the member if the member’s employment had
18 not been interrupted by such call or order to active duty.

19 **“§ 1000. Offer to procure appointive public office**

20 “Whoever pays or offers or promises any money or thing of
21 value, to any person, firm, or corporation in consideration of
22 the use or promise to use any influence to procure any appoint-
23 ive office or place under the United States for any person, shall
24 be imprisoned not more than one year.

25 **“§ 1001. Acceptance or solicitation to obtain ap-
26 pointive public office**

27 “(a) PROMISE OF OFFICE.—Whoever solicits or receives, ei-
28 ther as a political contribution, or for personal emolument, any
29 money or thing of value, in consideration of the promise of sup-
30 port or use of influence in obtaining for any person any ap-
31 pointive office or place under the United States, shall be im-
32 prisoned not more than one year.

33 “(b) ADDING PERSON TO OBTAIN EMPLOYMENT.—Whoever
34 solicits or receives any thing of value in consideration of aiding
35 a person to obtain employment under the United States either
36 by referring his name to an executive department or agency of
37 the United States or by requiring the payment of a fee because

1 such person has secured such employment shall be imprisoned
2 not more than one year.

3 “(c) EXCLUSION.—This section does not apply to such serv-
4 ices rendered by an employment agency pursuant to the written
5 request of an executive department or agency of the United
6 States.

7 **“§ 1002. Acceptance of loan or gratuity by finan-**
8 **cial institution examiner**

9 “Whoever, being an examiner or assistant examiner, accepts
10 a loan or gratuity from any bank, branch, agency, organization,
11 corporation, association, or institution examined by the exam-
12 iner or from any person connected with it, shall—

13 “(1) be imprisoned not more than 1 year; and

14 “(2) shall be disqualified from holding office as an exam-
15 iner.

16 **“§ 1003. Receipt of commissions or gifts for pro-**
17 **curing loans**

18 “(a) OFFENSE.—Whoever—

19 “(1) corruptly gives, offers, or promises anything of
20 value to any person, with intent to influence or reward an
21 officer, director, employee, agent, or attorney of a financial
22 institution in connection with any business or transaction
23 of such institution; or

24 “(2) as an officer, director, employee, agent, or attorney
25 of a financial institution, corruptly solicits or demands for
26 the benefit of any person, or corruptly accepts or agrees to
27 accept, anything of value from any person, intending to be
28 influenced or rewarded in connection with any business or
29 transaction of such institution;

30 shall be imprisoned not more than 30 years, but if the value
31 of the thing given, offered, promised, solicited, demanded, ac-
32 cepted, or agreed to be accepted does not exceed \$1000, shall
33 be imprisoned not more than one year.

34 “(b) EXCLUSION.—This section shall not apply to bona fide
35 salary, wages, fees, or other compensation paid, or expenses
36 paid or reimbursed, in the usual course of business.

1 “(c) GUIDELINES.—Federal agencies with responsibility for
2 regulating a financial institution shall jointly establish such
3 guidelines as are appropriate to assist an officer, director, em-
4 ployee, agent, or attorney of a financial institution to comply
5 with this section. Such agencies shall make such guidelines
6 available to the public.

7 **“§ 1004. Penalties and injunctions**

8 “(a) CRIMINAL PENALTIES.—The punishment for an offense
9 under section 993, 994, 995, 997, 998, or 999 of this title is
10 the following:

11 “(1) Whoever engages in the conduct constituting the of-
12 fense shall be imprisoned for not more than one year.

13 “(2) Whoever knowingly engages in the conduct consti-
14 tuting the offense shall be imprisoned for not more than
15 five years.

16 “(b) CIVIL ACTION.—The Attorney General may bring a civil
17 action in the appropriate United States district court against
18 any person who engages in conduct constituting an offense
19 under section 993, 994, 995, 997, 998, or 999 of this title and,
20 upon proof of such conduct by a preponderance of the evidence,
21 such person shall be subject to a civil penalty of not more than
22 \$50,000 for each violation or the amount of compensation
23 which the person received or offered for the prohibited conduct,
24 whichever amount is greater. The imposition of a civil penalty
25 under this subsection does not preclude any other criminal or
26 civil statutory, common law, or administrative remedy, which is
27 available by law to the United States or any other person.

28 “(c) COURT ORDER.—If the Attorney General has reason to
29 believe that a person is engaging in conduct constituting an of-
30 fense under section 993, 994, 995, 997, 998, or 999 of this
31 title, the Attorney General may petition an appropriate United
32 States district court for an order prohibiting that person from
33 engaging in such conduct. The court may issue an order pro-
34 hibiting that person from engaging in such conduct if the court
35 finds that the conduct constitutes such an offense. The filing
36 of a petition under this section does not preclude any other

1 remedy which is available by law to the United States or any
2 other person.

3 **“§ 1005. Voiding transactions in violation of chap-**
4 **ter; recovery by the United States**

5 “In addition to any other remedies provided by law the
6 President or, under regulations prescribed by him, the head of
7 any department or agency involved, may declare void and re-
8 scind any contract, loan, grant, subsidy, license, right, permit,
9 franchise, use, authority, privilege, benefit, certificate, ruling,
10 decision, opinion, or rate schedule awarded, granted, paid, fur-
11 nished, or published, or the performance of any service or
12 transfer or delivery of any thing to, by or for any agency of
13 the United States or officer or employee of the United States
14 or person acting on behalf thereof, in relation to which there
15 has been a final conviction for any violation of this chapter,
16 and the United States shall be entitled to recover in addition
17 to any penalty prescribed by law or in a contract the amount
18 expended or the thing transferred or delivered on its behalf, or
19 the reasonable value thereof.

20 **“§ 1006. Officers and employees acting as agents**
21 **of foreign principals**

22 “(a) OFFENSE.—Whoever, being a public official, is or acts
23 as an agent of a foreign principal required to register under the
24 Foreign Agents Registration Act of 1938 or a lobbyist required
25 to register under the Lobbying Disclosure Act of 1995 in con-
26 nection with the representation of a foreign entity, as defined
27 in section 3(6) of that Act shall be imprisoned for not more
28 than two years.

29 “(b) EXCLUSION.—Nothing in this section shall apply to the
30 employment of any agent of a foreign principal as a special
31 Government employee in any case in which the head of the em-
32 ploying agency certifies that such employment is required in
33 the national interest. A copy of any certification under this
34 paragraph shall be forwarded by the head of such agency to the
35 Attorney General who shall cause the same to be filed with the
36 registration statement and other documents filed by such
37 agent, and made available for public inspection in accordance

1 with section 6 of the Foreign Agents Registration Act of 1938,
2 as amended.

3 “(c) DEFINITION.—As used in this section ‘public official’
4 means Member of Congress, Delegate, or Resident Commis-
5 sioner, either before or after he has qualified, or an officer or
6 employee or person acting for or on behalf of the United
7 States, or any department, agency, or branch of Government
8 thereof, including the District of Columbia, in any official func-
9 tion, under or by authority of any such department, agency, or
10 branch of Government.

11 **“§ 1007. Bribery in sporting contests**

12 “(a) OFFENSE.—Whoever knowingly engages in any scheme
13 in or affecting interstate or foreign commerce to influence any
14 sporting contest in any way by bribery, shall be imprisoned not
15 more than 5 years.

16 “(b) NONPREEMPTION.—This section shall not be construed
17 as indicating an intent on the part of Congress to occupy the
18 field in which this section operates to the exclusion of a law
19 of any State, territory, Commonwealth, or possession of the
20 United States, and no law of any State, territory, Common-
21 wealth, or possession of the United States, which would be
22 valid in the absence of the section shall be declared invalid, and
23 no local authorities shall be deprived of any jurisdiction over
24 any offense over which they would have jurisdiction in the ab-
25 sence of this section.

26 “(c) DEFINITION.—As used in this section, the term ‘sport-
27 ing contest’ means any contest in any sport, between individual
28 contestants or teams of contestants (without regard to the
29 amateur or professional status of the contestants therein), the
30 occurrence of which is publicly announced before its occurrence.

31 **“§ 1008. Continuing financial crimes enterprise**

32 “(a) OFFENSE.—Whoever—

33 “(1) organizes, manages, or supervises a continuing fi-
34 nancial crimes enterprise; and

35 “(2) receives \$5,000,000 or more in gross receipts from
36 such enterprise during any 24-month period,

1 shall be imprisoned for a term of not less than 10 years and
2 which may be life.

3 “(b) DEFINITION.—As used in subsection (a), the term ‘con-
4 tinuing financial crimes enterprise’ means a series of violations
5 under section 1003, 644, 645, 773, 774, 775, 779, 789, 804,
6 801, and 803 affecting a financial institution, committed by at
7 least 4 persons acting in concert.

8 “SUBCHAPTER B—CLAIMS AND SERVICES IN
9 MATTERS AFFECTING GOVERNMENT

“Sec.

“1017. False, fictitious, or fraudulent claims.

10 **“§ 1017. False, fictitious, or fraudulent claims**

11 “Whoever makes or presents to any person or officer in the
12 civil, military, or naval service of the United States, or to any
13 department or agency thereof, any claim upon or against the
14 United States, or any department or agency thereof, knowing
15 such claim to be false, fictitious, or fraudulent, shall be impris-
16 oned not more than five years.

17 “SUBCHAPTER C—CONTEMPTS

“Sec.

“1021. Power of court.

“1022. Contempts constituting crimes.

18 **“§ 1021. Power of court**

19 “A court of the United States shall have power to punish by
20 fine or imprisonment, or both, at its discretion, such contempt
21 of its authority, and none other, as—

22 “(1) misbehavior of any person in its presence or so near
23 thereto as to obstruct the administration of justice;

24 “(2) misbehavior of any of its officers in their official
25 transactions; or

26 “(3) disobedience or resistance to its lawful writ, process,
27 order, rule, decree, or command.

28 **“§ 1022. Contempts constituting crimes**

29 “(a) OFFENSE.—Whoever disobeys any lawful writ, process,
30 order, rule, decree, or command of any district court of the
31 United States or any court of the District of Columbia, by
32 doing any act or thing therein, or thereby forbidden, if the act
33 or thing so done be of such character as to constitute also a

1 criminal offense under any statute of the United States or
 2 under the laws of any State in which the act was committed,
 3 shall be prosecuted for such contempt as provided in section
 4 3691 and shall be imprisoned any term of years or for life.

5 “(b) PAYMENT OF FINE AND LIMITATIONS ON FINE AND
 6 IMPRISONMENT.—Such fine shall be paid to the United States
 7 or to the complainant or other party injured by the act consti-
 8 tuting the contempt, or may, where more than one is so dam-
 9 aged, be divided or apportioned among them as the court may
 10 direct, but in no case shall the fine to be paid to the United
 11 States exceed, in case the accused is a natural person, the sum
 12 of \$1,000, nor shall such imprisonment exceed the term of six
 13 months.

14 “(c) APPLICABILITY OF SECTION.—This section shall not be
 15 construed to relate to contempts committed in the presence of
 16 the court, or so near thereto as to obstruct the administration
 17 of justice, nor to contempts committed in disobedience of any
 18 lawful writ, process, order, rule, decree, or command entered in
 19 any suit or action brought or prosecuted in the name of, or on
 20 behalf of, the United States, but the same, and all other cases
 21 of contempt not specifically embraced in this section may be
 22 punished in conformity to the prevailing usages at law.

23 “SUBCHAPTER D—ELECTIONS AND POLITICAL
 24 ACTIVITIES

“Sec.

“1031. Intimidation of voters.

“1032. Deprivation of employment or other benefit for political contribu-
 tion.

“1033. Solicitation of political contributions.

“1034. Coercion of political activity.

“1035. Voting by aliens.

25 “§ 1031. **Intimidation of voters**

26 “Whoever intimidates, threatens, coerces, or attempts to in-
 27 timidate, threaten, or coerce, any other person for the purpose
 28 of interfering with the right of such other person to vote or to
 29 vote as he may choose, or of causing such other person to vote
 30 for, or not to vote for, any candidate for the office of President,
 31 Vice President, Presidential elector, Member of the Senate,
 32 Member of the House of Representatives, Delegate from the

1 District of Columbia, or Resident Commissioner, at any elec-
2 tion held solely or in part for the purpose of electing such candi-
3 date, shall be imprisoned not more than one year.

4 **“§ 1032. Deprivation of employment or other ben-
5 efit for political contribution**

6 “(a) OFFENSE.—Whoever knowingly causes or attempts to
7 cause any person to make a contribution of a thing of value
8 (including services) for the benefit of any candidate or any po-
9 litical party, by means of the denial or deprivation, or the
10 threat of the denial or deprivation, of—

11 “(1) any employment, position, or work in or for any
12 agency or other entity of the Government of the United
13 States, a State, or a political subdivision of a State, or any
14 compensation or benefit of such employment, position, or
15 work; or

16 “(2) any payment or benefit of a program of the United
17 States, a State, or a political subdivision of a State;
18 if such employment, position, work, compensation, payment, or
19 benefit is provided for or made possible in whole or in part by
20 an Act of Congress, shall be imprisoned not more than one
21 year.

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

23 “(1) the term ‘candidate’ means an individual who seeks
24 nomination for election, or election, to Federal, State, or
25 local office, whether or not such individual is elected, and,
26 for purposes of this paragraph, an individual shall be
27 deemed to seek nomination for election, or election, to Fed-
28 eral, State, or local office, if he has (A) taken the action
29 necessary under the law of a State to qualify himself for
30 nomination for election, or election, or (B) received con-
31 tributions or made expenditures, or has given his consent
32 for any other person to receive contributions or make ex-
33 penditures, with a view to bringing about his nomination
34 for election, or election, to such office;

35 “(2) the term ‘election’ means (A) a general, special pri-
36 mary, or runoff election, (B) a convention or caucus of a
37 political party held to nominate a candidate, (C) a primary

1 election held for the selection of delegates to a nominating
2 convention of a political party, (D) a primary election held
3 for the expression of a preference for the nomination of
4 persons for election to the office of President, and (E) the
5 election of delegates to a constitutional convention for pro-
6 posing amendments to the Constitution of the United
7 States or of any State; and

8 “(3) the term ‘State’ means a State of the United
9 States, the District of Columbia, the Commonwealth of
10 Puerto Rico, or any territory or possession of the United
11 States.

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 office of
16 Senator or Representative in, or Delegate or Resident Com-
17 missioner to, the Congress;

18 “(3) an officer or employee of the United States or any
19 department or agency thereof; or

20 “(4) a person receiving any salary or compensation for
21 services from money derived from the Treasury of the
22 United States; to knowingly solicit any contribution within
23 the meaning of section 301(8) of the Federal Election
24 Campaign Act of 1971 from any other such officer, em-
25 ployee, or person. Whoever violates this section shall be im-
26 prisoned not more than 3 years.

27 “(b) EXCLUSION.—The prohibition in subsection (a) shall
28 not apply to any activity of an employee (as defined in section
29 7322(1) of title 5) or any individual employed in or under the
30 United States Postal Service or the Postal Rate Commission,
31 unless that activity is prohibited by section 7323 or 7324 of
32 such title.

33 **“§ 1034. Coercion of political activity**

34 “It shall be unlawful for any person to intimidate, threaten,
35 command, or coerce, or attempt to intimidate, threaten, com-
36 mand, or coerce, any employee of the Federal Government as
37 defined in section 7322(1) of title 5, United States Code, to en-

1 gage in, or not to engage in, any political activity, including,
2 voting or refusing to vote for any candidate or measure in any
3 election, making or refusing to make any political contribution,
4 or working or refusing to work on behalf of any candidate.
5 Whoever violates this section shall be imprisoned not more than
6 three years.

7 **“§ 1035. Voting by aliens**

8 “(a) ELEMENTS OF OFFENSE.—It shall be unlawful for any
9 alien to vote in any election held solely or in part for the pur-
10 pose of electing a candidate for the office of President, Vice
11 President, Presidential elector, Member of the Senate, Member
12 of the House of Representatives, Delegate from the District of
13 Columbia, or Resident Commissioner, unless—

14 “(1) the election is held partly for some other purpose;

15 “(2) aliens are authorized to vote for such other purpose
16 under a State constitution or statute or a local ordinance;
17 and

18 “(3) voting for such other purpose is conducted inde-
19 pendently of voting for a candidate for such Federal offices,
20 in such a manner that an alien has the opportunity to vote
21 for such other purpose, but not an opportunity to vote for
22 a candidate for any one or more of such Federal offices.

23 “(b) PUNISHMENT.—Any person who violates this section
24 shall be imprisoned not more than one year.

25 “(c) EXCLUSION.—Subsection (a) does not apply to an alien
26 if—

27 “(1) each natural parent of the alien (or, in the case of
28 an adopted alien, each adoptive parent of the alien) is or
29 was a citizen (whether by birth or naturalization);

30 “(2) the alien permanently resided in the United States
31 prior to attaining the age of 16; and

32 “(3) the alien reasonably believed at the time of voting
33 in violation of such subsection that he or she was a citizen
34 of the United States.

35 **“SUBCHAPTER E—EMBLEMS, INSIGNIA, AND NAMES**

“Sec.

“1051. Desecration of the flag of the United States; penalties.

- “1052. Official badges, identification cards, other insignia.
 “1053. Uniform of armed forces and Public Health Service.
 “1054. Military medals or decorations.
 “1055. False advertising or misuse of names to indicate Federal agency.
 “1056. Misuse of names, words, emblems, or insignia.
 “1057. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress.
 “1058. Public employee insignia and uniform.

1 **“§ 1051. Desecration of the flag of the United**
 2 **States; penalties**

3 “(a) OFFENSE.—Whoever knowingly mutilates, defaces,
 4 physically defiles, burns, maintains on the floor or ground, or
 5 tramples upon any flag of the United States shall be impris-
 6 oned for not more than one year.

7 “(b) EXCLUSIONS.—This subsection does not prohibit any
 8 conduct consisting of the disposal of a flag when it has become
 9 worn or soiled.

10 “(c) DEFINITION.—As used in this section, the term ‘flag of
 11 the United States’ means any flag of the United States, or any
 12 part thereof, made of any substance, of any size, in a form that
 13 is commonly displayed.

14 “(d) NONPREEMPTION.—Nothing in this section shall be
 15 construed as indicating an intent on the part of Congress to
 16 deprive any State, territory, possession, or the Commonwealth
 17 of Puerto Rico of jurisdiction over any offense over which it
 18 would have jurisdiction in the absence of this section.

19 “(e) EXPEDITED APPEAL.—

20 “(1) NATURE OF CLAIM.— An appeal may be taken di-
 21 rectly to the Supreme Court of the United States from any
 22 interlocutory or final judgment, decree, or order issued by
 23 a United States district court ruling upon the constitu-
 24 tionality of subsection (a).

25 “(2) PROCEDURAL EXPEDITION.—The Supreme Court shall,
 26 if it has not previously ruled on the question, accept jurisdic-
 27 tion over the appeal and advance on the docket and expedite
 28 to the greatest extent possible.

1 **“§ 1052. Official badges, identification cards, other**
2 **insignia**

3 “Whoever manufactures, sells, or possesses any badge, iden-
4 tification card, or other insignia, of the design prescribed by
5 the head of any department or agency of the United States for
6 use by any officer or employee thereof, or any colorable imita-
7 tion thereof, or photographs, prints, or in any other manner
8 makes or executes any engraving, photograph, print, or impres-
9 sion in the likeness of any such badge, identification card, or
10 other insignia, or any colorable imitation thereof, except as au-
11 thorized under regulations made pursuant to law, shall be im-
12 prisoned not more than six months.

13 **“§ 1053. Uniform of armed forces and Public**
14 **Health Service**

15 “Whoever, in any place within the jurisdiction of the United
16 States or in the Canal Zone, without authority, wears the uni-
17 form or a distinctive part thereof or anything similar to a dis-
18 tinctive part of the uniform of any of the armed forces of the
19 United States, Public Health Service or any auxiliary of such,
20 shall be imprisoned not more than six months.

21 **“§ 1054. Military medals or decorations**

22 “(a) IN GENERAL.—Whoever knowingly wears, purchases,
23 attempts to purchase, solicits for purchase, mails, ships, im-
24 ports, exports, produces blank certificates of receipt for, manu-
25 factures, sells, attempts to sell, advertises for sale, trades, bar-
26 ters, or exchanges for anything of value any decoration or
27 medal authorized by Congress for the armed forces of the
28 United States, or any of the service medals or badges awarded
29 to the members of such forces, or the ribbon, button, or rosette
30 of any such badge, decoration or medal, or any colorable imita-
31 tion thereof, except when authorized under regulations made
32 pursuant to law, shall be imprisoned not more than six months.

33 “(b) FALSE CLAIM ABOUT RECEIPT OF MILITARY DECORA-
34 TIONS OR MEDALS.—Whoever falsely represents himself or her-
35 self, verbally or in writing, to have been awarded any decora-
36 tion or medal authorized by Congress for the Armed Forces of
37 the United States, any of the service medals or badges awarded

1 to the members of such forces, the ribbon, button, or rosette
 2 of any such badge, decoration, or medal, or any colorable imita-
 3 tion of such item shall be imprisoned not more than six
 4 months.

5 “(c) ENHANCED PENALTY FOR OFFENSES INVOLVING CON-
 6 GRESSIONAL MEDAL OF HONOR.—

7 “(1) IN GENERAL.—If a decoration or medal involved in
 8 an offense under subsection (a) or (b) is a Congressional
 9 Medal of Honor, in lieu of the punishment provided in that
 10 subsection, the offender shall be imprisoned not more than
 11 1 year.

12 “(2) CONGRESSIONAL MEDAL OF HONOR DEFINED.—In
 13 this subsection, the term ‘Congressional Medal of Honor’
 14 means—

15 “(A) a medal of honor awarded under section 3741,
 16 6241, or 8741 of title 10 or section 491 of title 14;

17 “(B) a duplicate medal of honor issued under section
 18 3754, 6256, or 8754 of title 10 or section 504 of title
 19 14; or

20 “(C) a replacement of a medal of honor provided
 21 under section 3747, 6253, or 8747 of title 10 or sec-
 22 tion 501 of title 14.

23 “(d) ENHANCED PENALTY FOR OFFENSES INVOLVING CER-
 24 TAIN OTHER MEDALS.—If a decoration or medal involved in an
 25 offense described in subsection (a) or (b) is a distinguished-
 26 service cross awarded under section 3742 of title 10, a Navy
 27 cross awarded under section 6242 of title 10, an Air Force
 28 cross awarded under section 8742 of section 10, a silver star
 29 awarded under section 3746, 6244, or 8746 of title 10, a Pur-
 30 ple Heart awarded under section 1129 of title 10, or any re-
 31 placement or duplicate medal for such medal as authorized by
 32 law, in lieu of the punishment provided in the applicable sub-
 33 section, the offender shall be fined under this title, imprisoned
 34 not more than 1 year, or both.

35 **“§ 1055. False advertising or misuse of names to**
 36 **indicate Federal agency**

37 “(a) OFFENSE.—Whoever—

1 “(1) except as permitted by the laws of the United
2 States, uses the words ‘national’, ‘Federal’, ‘United States’,
3 ‘reserve’, or ‘Deposit Insurance’ as part of the business or
4 firm name of a person, corporation, partnership, business
5 trust, association or other business entity engaged in the
6 banking, loan, building and loan, brokerage, factorage, in-
7 surance, indemnity, savings or trust business;

8 “(2) falsely advertises or represents, or publishes or dis-
9 plays any sign, symbol or advertisement reasonably cal-
10 culated to convey the impression that a nonmember bank,
11 banking association, firm or partnership is a member of the
12 Federal reserve system;

13 “(3) except as expressly authorized by Federal law, uses
14 the words ‘Federal Deposit’, ‘Federal Deposit Insurance’,
15 or ‘Federal Deposit Insurance Corporation’ or a combina-
16 tion of any three of these words, as the name or a part
17 thereof under which he or it does business, or advertises or
18 otherwise represents falsely by any device whatsoever that
19 his or its deposit liabilities, obligations, certificates, or
20 shares are insured or guaranteed by the Federal Deposit
21 Insurance Corporation, or by the United States or by any
22 instrumentality thereof, or whoever advertises that his or
23 its deposits, shares, or accounts are federally insured, or
24 falsely advertises or otherwise represents by any device
25 whatsoever the extent to which or the manner in which the
26 deposit liabilities of an insured bank or banks are insured
27 by the Federal Deposit Insurance Corporation;

28 “(4) other than a bona fide organization or association
29 of Federal or State credit unions or except as permitted by
30 the laws of the United States, uses as a firm or business
31 name or transacts business using the words ‘National Cred-
32 it Union’, ‘National Credit Union Administration’, ‘Na-
33 tional Credit Union Board’, ‘National Credit Union Share
34 Insurance Fund’, ‘Share Insurance’, or ‘Central Liquidity
35 Facility’, or the letters ‘NCUA’, ‘NCUSIF’, or ‘CLF’, or
36 any other combination or variation of those words or letters
37 alone or with other words or letters, or any device or sym-

1 bol or other means, reasonably calculated to convey the
2 false impression that such name or business has some con-
3 nection with, or authorization from, the National Credit
4 Union Administration, the Government of the United
5 States, or any agency thereof, which does not in fact exist,
6 or falsely advertises or otherwise represents by any device
7 whatsoever that his or its business, product, or service has
8 been in any way endorsed, authorized, or approved by the
9 National Credit Union Administration, the Government of
10 the United States, or any agency thereof, or falsely adver-
11 tises or otherwise represents by any device whatsoever that
12 his or its deposit liabilities, obligations, certificates, shares,
13 or accounts are insured under the Federal Credit Union
14 Act or by the United States or any instrumentality thereof,
15 or being an insured credit union as defined in that Act
16 falsely advertises or otherwise represents by any device
17 whatsoever the extent to which or the manner in which
18 share holdings in such credit union are insured under such
19 Act;

20 “(5) not being organized under the Farm Credit Act of
21 1971, advertises or represents that it makes Federal Farm
22 loans or advertises or offers for sale as Federal Farm loan
23 bonds any bond not issued under the Farm Credit Act of
24 1971, or uses the word ‘Federal’ or the words ‘United
25 States’ or any other words implying Government owner-
26 ship, obligation or supervision in advertising or offering for
27 sale any bond, note, mortgage or other security not issued
28 by the Government of the United States under the Farm
29 Credit Act of 1971;

30 Whoever uses the words ‘Federal Home Loan Bank’ or any
31 combination or variation of these words alone or with other
32 words as a business name or part of a business name, or falsely
33 publishes, advertises or represents by any device or symbol or
34 other means reasonably calculated to convey the impression
35 that he or it is a Federal Home Loan Bank or member of or
36 subscriber for the stock of a Federal Home Loan Bank;

1 “(6) uses the words ‘Federal intermediate credit bank’ as
2 part of the business or firm name for any person, corpora-
3 tion, partnership, business trust, association or other busi-
4 ness entity not organized as an intermediate credit bank
5 under the laws of the United States;

6 “(7) uses as a firm or business name the words ‘Depart-
7 ment of Housing and Urban Development’, ‘Housing and
8 Home Finance Agency’, ‘Federal Housing Administration’,
9 ‘Government National Mortgage Association’, ‘United
10 States Housing Authority’, or ‘Public Housing Administra-
11 tion’ or the letters ‘HUD’, ‘FHA’, ‘PHA’, or ‘USHA’, or
12 any combination or variation of those words or the letters
13 ‘HUD’, ‘FHA’, ‘PHA’, or ‘USHA’ alone or with other
14 words or letters reasonably calculated to convey the false
15 impression that such name or business has some connection
16 with, or authorization from, the Department of Housing
17 and Urban Development, the Housing and Home Finance
18 Agency, the Federal Housing Administration, the Govern-
19 ment National Mortgage Association, the United States
20 Housing Authority, the Public Housing Administration, the
21 Government of the United States, or any agency thereof,
22 which does not in fact exist, or falsely claims that any re-
23 pair, improvement, or alteration of any existing structure
24 is required or recommended by the Department of Housing
25 and Urban Development, the Housing and Home Finance
26 Agency, the Federal Housing Administration, the Govern-
27 ment National Mortgage Association, the United States
28 Housing Authority, the Public Housing Administration, the
29 Government of the United States, or any agency thereof,
30 for the purpose of inducing any person to enter into a con-
31 tract for the making of such repairs, alterations, or im-
32 provements, or falsely advertises or falsely represents by
33 any device whatsoever that any housing unit, project, busi-
34 ness, or product has been in any way endorsed, authorized,
35 inspected, appraised, or approved by the Department of
36 Housing and Urban Development, the Housing and Home
37 Finance Agency, the Federal Housing Administration, the

1 Government National Mortgage Association, the United
2 States Housing Authority, the Public Housing Administra-
3 tion, the Government of the United States, or any agency
4 thereof;

5 “(8) except with the written permission of the Director
6 of the Federal Bureau of Investigation, knowingly uses the
7 words ‘Federal Bureau of Investigation’ or the initials
8 ‘F.B.I.’, or any colorable imitation of such words or initials,
9 in connection with any advertisement, circular, book, pam-
10 phlet or other publication, play, motion picture, broadcast,
11 telecast, or other production, in a manner reasonably cal-
12 culated to convey the impression that such advertisement,
13 circular, book, pamphlet or other publication, play, motion
14 picture, broadcast, telecast, or other production, is ap-
15 proved, endorsed, or authorized by the Federal Bureau of
16 Investigation;

17 “(9) except with written permission of the Director of
18 the United States Secret Service, knowingly uses the words
19 ‘Secret Service’, ‘Secret Service Uniformed Division’, the
20 initials ‘U.S.S.S.’, ‘U.D.’, or any colorable imitation of such
21 words or initials, in connection with, or as a part of any
22 advertisement, circular, book, pamphlet or other publica-
23 tion, play, motion picture, broadcast, telecast, other produc-
24 tion, product, or item, in a manner reasonably calculated
25 to convey the impression that such advertisement, circular,
26 book, pamphlet or other publication, product, or item, is
27 approved, endorsed, or authorized by or associated in any
28 manner with, the United States Secret Service, or the
29 United States Secret Service Uniformed Division;

30 “(10) except with the written permission of the Director
31 of the United States Mint, knowingly uses the words
32 ‘United States Mint’ or ‘U.S. Mint’ or any colorable imita-
33 tion of such words, in connection with any advertisement,
34 circular, book, pamphlet, or other publication, play, motion
35 picture, broadcast, telecast, or other production, in a man-
36 ner reasonably calculated to convey the impression that
37 such advertisement, circular, book, pamphlet, or other pub-

1 lication, play, motion picture, broadcast, telecast, or other
2 production, is approved, endorsed, or authorized by or asso-
3 ciated in any manner with, the United States Mint;

4 “(11) uses the words ‘Overseas Private Investment’,
5 ‘Overseas Private Investment Corporation’, or ‘OPIC’, as
6 part of the business or firm name of a person, corporation,
7 partnership, business trust, association, or business entity;

8 “(12) except with the written permission of the Adminis-
9 trator of the Drug Enforcement Administration, knowingly
10 uses the words ‘Drug Enforcement Administration’ or the
11 initials ‘DEA’ or any colorable imitation of such words or
12 initials, in connection with any advertisement, circular,
13 book, pamphlet, software or other publication, play, motion
14 picture, broadcast, telecast, or other production, in a man-
15 ner reasonably calculated to convey the impression that
16 such advertisement, circular, book, pamphlet, software or
17 other publication, play, motion picture, broadcast, telecast,
18 or other production is approved, endorsed, or authorized by
19 the Drug Enforcement Administration; or

20 “(13) except with the written permission of the Director of
21 the United States Marshals Service, knowingly uses the words
22 ‘United States Marshals Service’, ‘U.S. Marshals Service’,
23 ‘United States Marshal’, ‘U.S. Marshal’, ‘U.S.M.S.’, or any
24 colorable imitation of any such words, or the likeness of a
25 United States Marshals Service badge, logo, or insignia on any
26 item of apparel, in connection with any advertisement, circular,
27 book, pamphlet, software, or other publication, or any play, mo-
28 tion picture, broadcast, telecast, or other production, in a man-
29 ner that is reasonably calculated to convey the impression that
30 the wearer of the item of apparel is acting pursuant to the legal
31 authority of the United States Marshals Service, or to convey
32 the impression that such advertisement, circular, book, pam-
33 phlet, software, or other publication, or such play, motion pic-
34 ture, broadcast, telecast, or other production, is approved, en-
35 dorsed, or authorized by the United States Marshals Service;
36 shall be punished fined.

37 “(b) EXCLUSIONS.—

1 the United States House of Representatives, or the seal of the
2 United States Congress, or any facsimile thereof, in, or in con-
3 nection with, any advertisement, poster, circular, book, pam-
4 phlet, or other publication, public meeting, play, motion pic-
5 ture, telecast, or other production, or on any building, monu-
6 ment, or stationery, for the purpose of conveying, or in a man-
7 ner reasonably calculated to convey, a false impression of spon-
8 sorship or approval by the Government of the United States or
9 by any department, agency, or instrumentality thereof, shall be
10 imprisoned not more than six months.

11 “(b) LIKENESS ON ARTICLES.—Whoever, except as author-
12 ized under regulations promulgated by the President and pub-
13 lished in the Federal Register, knowingly manufactures, repro-
14 duces, sells, or purchases for resale, either separately or ap-
15 pended to any article manufactured or sold, any likeness of the
16 seals of the President or Vice President, or any substantial
17 part thereof, except for manufacture or sale of the article for
18 the official use of the Government of the United States, shall
19 be imprisoned not more than six months.

20 “(c) SEAL OF THE UNITED STATES.—Whoever, except as di-
21 rected by the United States Senate, or the Secretary of the
22 Senate on its behalf, knowingly uses, manufactures, reproduces,
23 sells or purchases for resale, either separately or appended to
24 any article manufactured or sold, any likeness of the seal of the
25 United States Senate, or any substantial part thereof, except
26 for manufacture or sale of the article for the official use of the
27 Government of the United States, shall be imprisoned not more
28 than six months.

29 “(d) SEAL OF UNITED STATES HOUSE OF REPRESENTA-
30 TIVES.—Whoever, except as directed by the United States
31 House of Representatives, or the Clerk of the House of Rep-
32 resentatives on its behalf, knowingly uses, manufactures, repro-
33 duces, sells or purchases for resale, either separately or ap-
34 pended to any article manufactured or sold, any likeness of the
35 seal of the United States House of Representatives, or any sub-
36 stantial part thereof, except for manufacture or sale of the arti-

1 cle for the official use of the Government of the United States,
2 shall be imprisoned not more than six months.

3 “(e) SEAL OF CONGRESS.—Whoever, except as directed by
4 the United States Congress, or the Secretary of the Senate and
5 the Clerk of the House of Representatives, acting jointly on its
6 behalf, knowingly uses, manufactures, reproduces, sells or pur-
7 chases for resale, either separately or appended to any article
8 manufactured or sold, any likeness of the seal of the United
9 States Congress, or any substantial part thereof, except for
10 manufacture or sale of the article for the official use of the
11 Government of the United States, shall be imprisoned not more
12 than six months.

13 “(f) VIOLATION MAY BE ENJOINED.—A violation of the pro-
14 visions of this section may be enjoined at the suit of the Attor-
15 ney General—

16 “(1) in the case of the great seal of the United States
17 and the seals of the President and Vice President, upon
18 complaint by any authorized representative of any depart-
19 ment or agency of the United States;

20 “(2) in the case of the seal of the United States Senate,
21 upon complaint by the Secretary of the Senate;

22 “(3) in the case of the seal of the United States House
23 of Representatives, upon complaint by the Clerk of the
24 House of Representatives; and

25 “(4) in the case of the seal of the United States Con-
26 gress, upon complaint by the Secretary of the Senate and
27 the Clerk of the House of Representatives, acting jointly.

28 **“§ 1058. Public employee insignia and uniform**

29 “(a) Whoever—

30 “(1) knowingly transfers, transports, or receives, in
31 interstate or foreign commerce, a counterfeit official insig-
32 nia or uniform;

33 “(2) knowingly transfers, in interstate or foreign com-
34 merce, a genuine official insignia or uniform to an indi-
35 vidual, knowing that such individual is not authorized to
36 possess it under the law of the place in which the badge
37 is the official insignia or uniform;

1 “(3) knowingly receives a genuine official insignia or uni-
2 form in a transfer prohibited by paragraph (2); or

3 “(4) being a person not authorized to possess a genuine
4 official insignia or uniform under the law of the place in
5 which the badge is the official insignia or uniform, know-
6 ingly transports that badge in interstate or foreign com-
7 merce,

8 shall be imprisoned not more than 6 months.

9 “(b) It is a defense to a prosecution under this section that
10 the insignia or uniform is other than a counterfeit insignia or
11 uniform and is not used to mislead or deceive, or is used or
12 is intended to be used exclusively—

13 “(1) as a memento, or in a collection or exhibit;

14 “(2) for decorative purposes;

15 “(3) for a dramatic presentation, such as a theatrical,
16 film, or television production; or

17 “(4) for any other recreational purpose.

18 “(c) It is a defense to a prosecution under this section that
19 the official insignia or uniform is not used or intended to be
20 used to mislead or deceive, or is a counterfeit insignia or uni-
21 form and is used or is intended to be used exclusively—

22 “(1) for a dramatic presentation, such as a theatrical,
23 film, or television production; or

24 “(2) for legitimate law enforcement purposes.

25 “(d) As used in this section—

26 “(1) the term ‘genuine police badge’ means an official
27 badge issued by public authority to identify an individual
28 as a law enforcement officer having police powers;

29 “(2) the term ‘counterfeit police badge’ means an item
30 that so resembles a police badge that it would deceive an
31 ordinary individual into believing it was a genuine police
32 badge; and

33 “(3) the term ‘official insignia or uniform’ means an ar-
34 ticle of distinctive clothing or insignia, including a badge,
35 emblem or identification card, that is an indicium of the
36 authority of a public employee;

1 “(4) the term ‘public employee’ means any officer or em-
2 ployee of the Federal Government or of a State or local
3 government; and

4 “(5) the term ‘uniform’ means distinctive clothing or
5 other items of dress, whether real or counterfeit, worn dur-
6 ing the performance of official duties and which identifies
7 the wearer as a public agency employee.

8 “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.

9 “**§ 1071. Prisoners in custody of institution or offi-**
10 **cer**

11 “(a) ADULTS.—Whoever escapes or attempts to escape from
12 the custody of the Attorney General or his authorized rep-
13 resentative, or from any institution or facility in which he is
14 confined by direction of the Attorney General, or from any cus-
15 tody under or by virtue of any process issued under the laws
16 of the United States by any court, judge, or magistrate judge,
17 or from the custody of an officer or employee of the United
18 States pursuant to lawful arrest, shall, if the custody or con-
19 finement is by virtue of an arrest on a charge of felony, or con-
20 viction of any offense, be imprisoned not more than five years;
21 or if the custody or confinement is for extradition, or for exclu-
22 sion or expulsion proceedings under the immigration laws, or
23 by virtue of an arrest or charge of or for a misdemeanor, and
24 prior to conviction, be imprisoned not more than one year.

25 “(b) JUVENILES.—Whoever escapes or attempts to escape
26 from the custody of the Attorney General or his authorized rep-
27 resentative, or from any institution or facility in which he is
28 confined by direction of the Attorney General, or from any cus-
29 tody under or by virtue of any process issued under the laws
30 of the United States by any court, judge, or magistrate judge,
31 or from the custody of an officer or employee of the United
32 States pursuant to lawful arrest, shall, if the custody or con-

1 finement is by virtue of a lawful arrest for a violation of any
2 law of the United States not punishable by death or life impris-
3 onment and committed before such person’s eighteenth birth-
4 day, and as to whom the Attorney General has not specifically
5 directed the institution of criminal proceedings, or by virtue of
6 a commitment as a juvenile delinquent under section 5034 of
7 this title, be imprisoned not more than one year. Nothing in
8 this section affects the discretionary authority vested in the At-
9 torney General pursuant to section 5032 of this title.

10 **“§ 1072. Instigating or assisting escape**

11 “(a) ADULTS.—Whoever rescues or attempts to rescue or in-
12 stigates, aids or assists the escape, or attempt to escape, of any
13 person arrested upon a warrant or other process issued under
14 any law of the United States, or committed to the custody of
15 the Attorney General or to any institution or facility by his di-
16 rection, shall, if the custody or confinement is by virtue of an
17 arrest on a charge of felony, or conviction of any offense, be
18 imprisoned not more than five years; or, if the custody or con-
19 finement is for extradition, or for exclusion or expulsion pro-
20 ceedings under the immigration laws, or by virtue of an arrest
21 or charge of or for a misdemeanor, and prior to conviction, be
22 imprisoned not more than one year.

23 “(b) JUVENILES.—Whoever rescues or attempts to rescue or
24 instigates, aids, or assists the escape or attempted escape of
25 any person in the custody of the Attorney General or his au-
26 thorized representative, or of any person arrested upon a war-
27 rant or other process issued under any law of the United States
28 or from any institution or facility in which he is confined by
29 direction of the Attorney General, shall, if the custody or con-
30 finement is by virtue of a lawful arrest for a violation of any
31 law of the United States not punishable by death or life impris-
32 onment and committed before such person’s eighteenth birth-
33 day, and as to whom the Attorney General has not specifically
34 directed the institution of criminal proceedings, or by virtue of
35 a commitment as a juvenile delinquent under section 5034 of
36 this title, be imprisoned not more than one year.

1 **“§ 1073. Officer permitting escape**

2 “Whoever, having in his custody any prisoner by virtue of
3 process issued under the laws of the United States by any
4 court, judge, or magistrate judge, voluntarily suffers such pris-
5 oner to escape, shall be imprisoned not more than 5 years; or
6 if he negligently suffers such person to escape, he shall be im-
7 prisoned not more than one year.

8 **“§ 1074. High speed flight from immigration**
9 **checkpoint**

10 “Whoever flees or evades a checkpoint operated by the Immi-
11 gration and Naturalization Service, or any other Federal law
12 enforcement agency, in a motor vehicle and flees Federal,
13 State, or local law enforcement agents in excess of the legal
14 speed limit shall be imprisoned not more than five years.

15 **“§ 1075. Escape from hospitalization**

16 “Whoever escapes or attempts to escape from the custody of
17 any facility or from any place in which or to which he is con-
18 fined pursuant to this section 1826 of title 28 or section 4243
19 of this title, or whoever rescues or attempts to rescue or insti-
20 gates, aids, or assists the escape or attempt to escape of such
21 a person, shall be imprisoned not more than three years.

22 “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.

23 **“§ 1091. Citizen of the United States**

24 “Whoever falsely represents oneself to be a citizen of the
25 United States shall be imprisoned not more than three years.

26 **“§ 1092. Officer or employee of the United States**

27 “Whoever falsely assumes or pretends to be an officer or em-
28 ployee acting under the authority of the United States or any
29 department, agency or officer thereof, and acts as such, or in
30 such pretended character demands or obtains any money,
31 paper, document, or thing of value, shall be imprisoned not
32 more than three years.

1 **“§ 1093. Impersonator making arrest or search**

2 “Whoever falsely represents oneself to be an officer, agent,
3 or employee of the United States, and in such assumed char-
4 acter arrests or detains any person or in any manner searches
5 the person, buildings, or other property of any person, shall be
6 imprisoned not more than three years.

7 **“SUBCHAPTER H—FUGITIVES FROM JUSTICE**

“Sec.

“1101. Concealing person from arrest.

“1102. Concealing escaped prisoner.

“1103. Flight to avoid prosecution or giving testimony.

“1104. Flight to avoid prosecution for damaging or destroying any build-
ing or other real or personal property.

8 **“§ 1101. Concealing person from arrest**

9 “Whoever harbors or conceals any person for whose arrest
10 a warrant or process has been issued under the provisions of
11 any law of the United States, so as to prevent his discovery and
12 arrest, after notice or knowledge of the fact that a warrant or
13 process has been issued for the apprehension of such person,
14 shall be imprisoned not more than one year; except that if the
15 warrant or process issued on a charge of felony, or after convic-
16 tion of such person of any offense, the punishment shall be a
17 fine under this title, or imprisonment for not more than five
18 years, or both.

19 **“§ 1102. Concealing escaped prisoner**

20 “Whoever harbors or conceals any prisoner after that pris-
21 oner’s escape from the custody of the Attorney General or from
22 a Federal penal or correctional institution, shall be imprisoned
23 not more than three years.

24 **“§ 1103. Flight to avoid prosecution or giving tes-
25 timony**

26 “(a) OFFENSE.—Whoever moves or travels in interstate or
27 foreign commerce with intent—

28 “(1) to avoid prosecution, or custody or confinement
29 after conviction, under the laws of the place from which he
30 flees, for a crime, or an attempt to commit a crime, punish-
31 able by death or which is a felony under the laws of the
32 place from which the fugitive flees;

1 “(2) to avoid giving testimony in any criminal pro-
2 ceedings in such place in which the commission of an of-
3 fense punishable by death or which is a felony under the
4 laws of such place, is charged; or

5 “(3) to avoid service of, or contempt proceedings for al-
6 leged disobedience of, lawful process requiring attendance
7 and the giving of testimony or the production of documen-
8 tary evidence before an agency of a State empowered by
9 the law of such State to conduct investigations of alleged
10 criminal activities;

11 shall be imprisoned not more than five years.

12 “(b) SPECIAL VENUE AND APPROVAL REQUIRED.—Viola-
13 tions of this section may be prosecuted only in the Federal ju-
14 dicial district in which the original crime was alleged to have
15 been committed, or in which the person was held in custody or
16 confinement, or in which an avoidance of service of process or
17 a contempt referred to in subsection (a)(3) is alleged to have
18 been committed, and only upon formal approval in writing by
19 the Attorney General, the Deputy Attorney General, the Asso-
20 ciate Attorney General, or an Assistant Attorney General of the
21 United States, which function of approving prosecutions may
22 not be delegated.

23 **“§ 1104. Flight to avoid prosecution for damaging**
24 **or destroying any building or other real**
25 **or personal property**

26 “(a) OFFENSE.—Whoever moves or travels in interstate or
27 foreign commerce with intent—

28 “(1) to avoid prosecution, or custody, or confinement
29 after conviction, under the laws of the place from which he
30 flees, for willfully attempting to or damaging or destroying
31 by fire or explosive any building, structure, facility, vehicle,
32 dwelling house, synagogue, church, religious center or edu-
33 cational institution, public or private; or

34 “(2) to avoid giving testimony in any criminal proceeding
35 relating to any such offense;

36 shall be imprisoned not more than five years.

1 “(b) VENUE.—Violations of this section may be prosecuted
 2 in the Federal judicial district in which the original crime was
 3 alleged to have been committed or in which the person was held
 4 in custody or confinement: Provided, however, That this section
 5 shall not be construed as indicating an intent on the part of
 6 Congress to prevent any State, Territory, Commonwealth, or
 7 possession of the United States of any jurisdiction over any of-
 8 fense over which they would have jurisdiction in the absence of
 9 such section.

10 “SUBCHAPTER I—OBSTRUCTION OF JUSTICE

“Sec.

“1131. Assault on process server.

“1132. Influencing or injuring officer or juror generally.

“1133. Obstruction of proceedings before departments, agencies, and committees.

“1134. Obstruction of court orders.

“1135. Obstruction of criminal investigations.

“1136. Obstruction of State or local law enforcement with regard to illegal gambling 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.

11 “§ 1131. **Assault on process server**

12 “Whoever—

13 “(1) knowingly obstructs, resists, or opposes any officer
 14 of the United States, or other person duly authorized, in
 15 serving, or attempting to serve or execute, any legal or ju-
 16 dicial writ or process of any court of the United States, or
 17 United States magistrate judge; or

18 “(2) assaults, beats, or wounds any officer or other per-
 19 son duly authorized, knowing him to be such officer, or
 20 other person so duly authorized, in serving or executing any
 21 such writ, rule, order, process, warrant, or other legal or
 22 judicial writ or process;

23 shall, except as otherwise provided by law, be imprisoned not
 24 more than one year.

1 **“§ 1132. Influencing or injuring officer or juror**
 2 **generally**

3 “(a) ELEMENTS OF THE OFFENSE.—Whoever corruptly, or
 4 by threats or force, or by any threatening letter or communica-
 5 tion, endeavors to influence, intimidate, or impede any grand
 6 or petit juror, or officer in or of any court of the United States,
 7 or officer who may be serving at any examination or other pro-
 8 ceeding before any United States magistrate judge or other
 9 committing magistrate, in the discharge of duty, or injures any
 10 such grand or petit juror in his or her person or property on
 11 account of any verdict or indictment assented to by him or her,
 12 or on account of being or having been such juror, or injures
 13 any such officer, magistrate judge, or other committing mag-
 14 istrate in his or her person or property on account of the per-
 15 formance of his official duties, or corruptly or by threats or
 16 force, or by any threatening letter or communication, influ-
 17 ences, obstructs, or impedes, or endeavors to influence, ob-
 18 struct, or impede, the due administration of justice, shall be
 19 punished as provided in subsection (b). If the offense under
 20 this section occurs in connection with a trial of a criminal case,
 21 and the act in violation of this section involves the threat of
 22 physical force or physical force, the maximum term of impris-
 23 onment which may be imposed for the offense shall be the high-
 24 er of that otherwise provided by law or the maximum term that
 25 could have been imposed for any offense charged in such case.

26 “(b) PUNISHMENT.—The punishment for an offense under
 27 this section is—

28 “(1) in the case of a killing, the punishment provided in
 29 chapter 10;

30 “(2) in the case of an attempted killing, or a case in
 31 which the offense was committed against a petit juror and,
 32 imprisonment for not more than 20 years; and

33 “(3) in any other case, imprisonment for not more than
 34 10 years.

35 **“§ 1133. Obstruction of proceedings before depart-**
 36 **ments, agencies, and committees**

37 “Whoever—

1 “(1) with intent to avoid, evade, prevent, or obstruct
2 compliance, in whole or in part, with any civil investigative
3 demand duly and properly made under the Antitrust Civil
4 Process Act, knowingly withholds, misrepresents, removes
5 from any place, conceals, covers up, destroys, mutilates, al-
6 ters, or by other means falsifies any documentary material,
7 answers to written interrogatories, or oral testimony, which
8 is the subject of such demand; or attempts to do so or so-
9 licits another to do so; or

10 “(2) corruptly, or by threats or force, or by any threat-
11 ening letter or communication influences, obstructs, or im-
12 pedes the due and proper administration of the law under
13 which any pending proceeding is being had before any de-
14 partment or agency of the United States, or the due and
15 proper exercise of the power of inquiry under which any in-
16 quiry or investigation is being had by either House, or any
17 committee of either House or any joint committee of the
18 Congress;

19 shall be imprisoned not more than 5 years or, if the offense in-
20 volves international or domestic terrorism (as defined in section
21 283), imprisoned not more than 8 years.

22 **“§ 1134. Obstruction of court orders**

23 “(a) OFFENSE.—Whoever, by threats or force, knowingly
24 prevents, obstructs, impedes, or interferes with the due exercise
25 of rights or the performance of duties under any order, judg-
26 ment, or decree of a court of the United States, shall be impris-
27 oned not more than one year.

28 “(b) INJUNCTIVE AND OTHER RELIEF AVAILABLE.—No in-
29 junctive or other civil relief against the conduct made criminal
30 by this section shall be denied on the ground that such conduct
31 is a crime.

32 **“§ 1135. Obstruction of criminal investigations**

33 “(a) IN GENERAL.—Whoever knowingly attempts by means
34 of bribery to obstruct, delay, or prevent the communication of
35 information relating to a violation of any criminal statute of
36 the United States by any person to a criminal investigator shall
37 be imprisoned not more than five years.

1 “(b) FINANCIAL INSTITUTIONS.—(1) Whoever, being an offi-
2 cer of a financial institution, with the intent to obstruct a judi-
3 cial proceeding, notifies any other person about the existence
4 or contents of a subpoena for records of that financial institu-
5 tion, or information that has been furnished to the grand jury
6 in response to that subpoena, shall be imprisoned not more
7 than 5 years.

8 “(2) Whoever, being an officer of a financial institution noti-
9 fies—

10 “(A) a customer of that financial institution whose
11 records are sought by a grand jury subpoena; or

12 “(B) any other person named in that subpoena;
13 about the existence or contents of that subpoena or information
14 that has been furnished to the grand jury in response to that
15 subpoena, shall be imprisoned not more than one year.

16 “(3) As used in this subsection—

17 “(A) the term ‘an officer of a financial institution’ means
18 an officer, director, partner, employee, agent, or attorney of
19 or for a financial institution; and

20 “(B) the term ‘subpoena for records’ means a Federal
21 grand jury subpoena or a Department of Justice subpoena
22 (issued under section 3486 of title 18), for customer
23 records that has been served relating to a violation of, or
24 a conspiracy to violate—

25 “(i) section 1003, 644, 645, 773, 774, 775, 779,
26 804, 1451, 1452, or chapter 53 of title 31; or

27 “(ii) section 801 or 803 affecting a financial institu-
28 tion.

29 “(c) DEFINITION.—As used in this section, the term ‘crimi-
30 nal investigator’ means any individual duly authorized by a de-
31 partment, agency, or armed force of the United States to con-
32 duct or engage in investigations of or prosecutions for viola-
33 tions of the criminal laws of the United States.

34 “(d) INSURANCE.—(1) Whoever—

35 “(A) acting as, or being, an officer, director, agent or
36 employee of a person engaged in the business of insurance
37 whose activities affect interstate commerce, or

1 “(3) one or more of such persons conducts finances,
2 manages, supervises, directs, or owns all or part of an ille-
3 gal gambling business.

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

5 “(1) the term ‘illegal gambling business’ means a gam-
6 bling business which—

7 “(i) is a violation of the law of a State or political
8 subdivision in which it is conducted;

9 “(ii) involves five or more persons who conduct, fi-
10 nance, manage, supervise, direct, or own all or part of
11 such business; and

12 “(iii) has been or remains in substantially continuous
13 operation for a period in excess of thirty days or has
14 a gross revenue of \$2,000 in any single day; and

15 “(2) the term ‘gambling’ includes pool-selling, book-
16 making, maintaining slot machines, roulette wheels, or dice
17 tables, and conducting lotteries, policy, bolita or numbers
18 games, or selling chances therein.

19 “(c) EXCLUSION.—This section does not apply to any bingo
20 game, lottery, or similar game of chance conducted by an orga-
21 nization exempt from tax under paragraph (3) of subsection (c)
22 of section 501 of the Internal Revenue Code of 1986, if no part
23 of the gross receipts derived from such activity inures to the
24 benefit of any private shareholder, member, or employee of
25 such organization, except as reimbursement for actual expenses
26 incurred in the conduct of such activity.

27 “(d) PUNISHMENT.—Whoever violates this section shall be
28 imprisoned not more than five years.

29 **“§ 1137. Tampering with a witness, victim, or an**
30 **informant**

31 “(a) VIOLENT OFFENSE.—

32 “(1) KILLING.—Whoever kills or attempts to kill another
33 person, with intent to—

34 “(A) prevent the attendance or testimony of any per-
35 son in an official proceeding;

36 “(B) prevent the production of a record, document,
37 or other object, in an official proceeding; or

1 “(C) prevent the communication by any person to a
2 law enforcement officer or judge of the United States
3 of information relating to the commission or possible
4 commission of a Federal offense or a violation of condi-
5 tions of probation, parole, or release pending judicial
6 proceedings;

7 shall be punished as provided in paragraph (3).

8 “(2) USE OR THREAT OF PHYSICAL FORCE.—Whoever
9 uses physical force or the threat of physical force against
10 any person, or attempts to do so, with intent to—

11 “(A) influence, delay, or prevent the testimony of
12 any person in an official proceeding;

13 “(B) cause or induce any person to—

14 “(i) withhold testimony, or withhold a record,
15 document, or other object, from an official pro-
16 ceeding;

17 “(ii) alter, destroy, mutilate, or conceal an object
18 with intent to impair the integrity or availability of
19 the object for use in an official proceeding;

20 “(iii) evade legal process summoning that person
21 to appear as a witness, or to produce a record, doc-
22 ument, or other object, in an official proceeding; or

23 “(iv) be absent from an official proceeding to
24 which that person has been summoned by legal
25 process; or

26 “(C) hinder, delay, or prevent the communication to
27 a law enforcement officer or judge of the United States
28 of information relating to the commission or possible
29 commission of a Federal offense or a violation of condi-
30 tions of probation, supervised release, parole, or release
31 pending judicial proceedings;

32 shall be punished as provided in paragraph (3).

33 “(3) PUNISHMENT.—The punishment for an offense
34 under this subsection is—

35 “(A) the same as provided for a like offense in chap-
36 ter 10; and

1 “(B) in the case of the threat of use of physical force
2 against any person, imprisonment for not more than 10
3 years.

4 “(b) NONVIOLENT OFFENSES INVOLVING OTHER PER-
5 SONS.—Whoever knowingly uses intimidation, threatens, or cor-
6 ruptly persuades another person, or attempts to do so, or en-
7 gages in misleading conduct toward another person, with intent
8 to—

9 “(1) influence, delay, or prevent the testimony of any
10 person in an official proceeding;

11 “(2) cause or induce any person to—

12 “(A) withhold testimony, or withhold a record, docu-
13 ment, or other object, from an official proceeding;

14 “(B) alter, destroy, mutilate, or conceal an object
15 with intent to impair the object’s integrity or avail-
16 ability for use in an official proceeding;

17 “(C) evade legal process summoning that person to
18 appear as a witness, or to produce a record, document,
19 or other object, in an official proceeding; or

20 “(D) be absent from an official proceeding to which
21 such person has been summoned by legal process; or

22 “(3) hinder, delay, or prevent the communication to a
23 law enforcement officer or judge of the United States of in-
24 formation relating to the commission or possible commis-
25 sion of a Federal offense or a violation of conditions of pro-
26 bation, supervised release, parole, or release pending judi-
27 cial proceedings.

28 “(c) NONVIOLENT OFFENSES NOT INVOLVING OTHER PER-
29 SONS.—Whoever corruptly—

30 “(1) alters, destroys, mutilates, or conceals a record, docu-
31 ment, or other object, or attempts to do so, with the in-
32 tent to impair the object’s integrity or availability for use
33 in an official proceeding; or

34 “(2) otherwise obstructs, influences, or impedes any offi-
35 cial proceeding, or attempts to do so,

36 shall be imprisoned not more than 20 years.

1 “(d) HARASSMENT.—Whoever intentionally harasses another
2 person and thereby hinders, delays, prevents, or dissuades any
3 person from—

4 “(1) attending or testifying in an official proceeding;

5 “(2) reporting to a law enforcement officer or judge of
6 the United States the commission or possible commission
7 of a Federal offense or a violation of conditions of proba-
8 tion, supervised release, parole, or release pending judicial
9 proceedings;

10 “(3) arresting or seeking the arrest of another person in
11 connection with a Federal offense; or

12 “(4) causing a criminal prosecution, or a parole or pro-
13 bation revocation proceeding, to be sought or instituted, or
14 assisting in such prosecution or proceeding;

15 or attempts to do so, shall be imprisoned not more than one
16 year.

17 “(e) AFFIRMATIVE DEFENSE.—In a prosecution for an of-
18 fense under this section, it is an affirmative defense, that the
19 conduct consisted solely of lawful conduct and that the defend-
20 ant’s sole intention was to encourage, induce, or cause the
21 other person to testify truthfully.

22 “(f) SPECIAL RULES.—For the purposes of this section—

23 “(1) an official proceeding need not be pending or about
24 to be instituted at the time of the offense; and

25 “(2) the testimony, or the record, document, or other ob-
26 ject need not be admissible in evidence or free of a claim
27 of privilege.

28 “(g) STATE OF MIND.—In a prosecution for an offense
29 under this section, no state of mind need be proved with re-
30 spect to the circumstance—

31 “(1) that the official proceeding before a judge, court,
32 magistrate judge, grand jury, or government agency is be-
33 fore a judge or court of the United States, a United States
34 magistrate judge, a bankruptcy judge, a Federal grand
35 jury, or a Federal Government agency; or

36 “(2) that the judge is a judge of the United States or
37 that the law enforcement officer is an officer or employee

1 of the Federal Government or a person authorized to act
2 for or on behalf of the Federal Government or serving the
3 Federal Government as an adviser or consultant.

4 “(h) EXTRATERRITORIAL JURISDICTION.—There is
5 extraterritorial Federal jurisdiction over an offense under this
6 section.

7 “(i) VENUE.—A prosecution under this section or section
8 1132 may be brought in the district in which the official pro-
9 ceeding (whether or not pending or about to be instituted) was
10 intended to be affected or in the district in which the conduct
11 constituting the alleged offense occurred.

12 “(j) INCREASED PUNISHMENT.—If the offense under this
13 section occurs in connection with a trial of a criminal case, the
14 maximum term of imprisonment which may be imposed for the
15 offense shall be the higher of that otherwise provided by law
16 or the maximum term that could have been imposed for any
17 offense charged in such case.

18 **“§ 1138. Retaliating against a witness, victim, or**
19 **an informant**

20 “(a) OFFENSES INVOLVING KILLING.—

21 “(1) ELEMENTS OF THE OFFENSE.— Whoever kills an-
22 other person with intent to retaliate against any person
23 for—

24 “(A) the attendance of a witness or party at an offi-
25 cial proceeding, or any testimony given or any record,
26 document, or other object produced by a witness in an
27 official proceeding; or

28 “(B) providing to a law enforcement officer any in-
29 formation relating to the commission or possible com-
30 mission of a Federal offense or a violation of conditions
31 of probation, supervised release, parole, or release
32 pending judicial proceedings,

33 “(2) PUNISHMENT.—The punishment for an offense
34 under this subsection is the same as for a like offense
35 under chapter 10.

36 “(b) OFFENSES INVOLVING BODILY INJURY.—Whoever
37 knowingly engages in any conduct and thereby causes bodily in-

1 jury to another person or damages the tangible property of an-
2 other person, or threatens to do so, with intent to retaliate
3 against any person for—

4 “(1) the attendance of a witness or party at an official
5 proceeding, or any testimony given or any record, docu-
6 ment, or other object produced by a witness in an official
7 proceeding; or

8 “(2) any information relating to the commission or pos-
9 sible commission of a Federal offense or a violation of con-
10 ditions of probation, supervised release, parole, or release
11 pending judicial proceedings given by a person to a law en-
12 forcement officer;

13 “(c) INCREASED PUNISHMENT.—If the retaliation occurred
14 because of attendance at or testimony in a criminal case, the
15 maximum term of imprisonment which may be imposed for the
16 offense under this section shall be the higher of that otherwise
17 provided by law or the maximum term that could have been im-
18 posed for any offense charged in such case.

19 “(d) EXTRATERRITORIAL JURISDICTION.—There is
20 extraterritorial Federal jurisdiction over an offense under this
21 section.

22 “(e) OTHER RETALIATION.— Whoever knowingly, with the
23 intent to retaliate, takes any action harmful to any person, in-
24 cluding interference with the lawful employment or livelihood of
25 any person, for providing to a law enforcement officer any
26 truthful information relating to the commission or possible
27 commission of any Federal offense, shall be imprisoned not
28 more than 10 years.

29 **“§ 1139. Civil action to restrain harassment of a**
30 **victim or witness**

31 “(a) TEMPORARY RESTRAINING ORDER.—(1) A United
32 States district court, upon application of the attorney for the
33 Government, shall issue a temporary restraining order prohib-
34 iting harassment of a victim or witness in a Federal criminal
35 case if the court finds, from specific facts shown by affidavit
36 or by verified complaint, that there are reasonable grounds to
37 believe that harassment of an identified victim or witness in a

1 Federal criminal case exists or that such order is necessary to
2 prevent and restrain an offense under section 1137 of this title,
3 other than an offense consisting of misleading conduct, or
4 under section 1138 of this title.

5 “(2)(A) A temporary restraining order may be issued under
6 this section without written or oral notice to the adverse party
7 or such party’s attorney in a civil action under this section if
8 the court finds, upon written certification of facts by the attor-
9 ney for the Government, that such notice should not be re-
10 quired and that there is a reasonable probability that the Gov-
11 ernment will prevail on the merits.

12 “(B) A temporary restraining order issued without notice
13 under this section shall be endorsed with the date and hour of
14 issuance and be filed forthwith in the office of the clerk of the
15 court issuing the order.

16 “(C) A temporary restraining order issued under this section
17 shall expire at such time, not to exceed 10 days from issuance,
18 as the court directs; the court, for good cause shown before ex-
19 piration of such order, may extend the expiration date of the
20 order for up to 10 days or for such longer period agreed to by
21 the adverse party.

22 “(D) When a temporary restraining order is issued without
23 notice, the motion for a protective order shall be set down for
24 hearing at the earliest possible time and takes precedence over
25 all matters except older matters of the same character, and
26 when such motion comes on for hearing, if the attorney for the
27 Government does not proceed with the application for a protec-
28 tive order, the court shall dissolve the temporary restraining
29 order.

30 “(E) If on two days notice to the attorney for the Govern-
31 ment or on such shorter notice as the court may prescribe, the
32 adverse party appears and moves to dissolve or modify the tem-
33 porary restraining order, the court shall proceed to hear and
34 determine such motion as expeditiously as the ends of justice
35 require.

36 “(F) A temporary restraining order shall set forth the rea-
37 sons for the issuance of such order, be specific in terms, and

1 describe in reasonable detail (and not by reference to the com-
2 plaint or other document) the act or acts being restrained.

3 “(b) PROTECTIVE ORDER.—(1) A United States district
4 court, upon motion of the attorney for the Government, shall
5 issue a protective order prohibiting harassment of a victim or
6 witness in a Federal criminal case if the court, after a hearing,
7 finds by a preponderance of the evidence that harassment of an
8 identified victim or witness in a Federal criminal case exists or
9 that such order is necessary to prevent and restrain an offense
10 under section 1137 of this title, other than an offense con-
11 sisting of misleading conduct, or under section 1138 of this
12 title.

13 “(2) At the hearing referred to in paragraph (1) of this sub-
14 section, any adverse party named in the complaint shall have
15 the right to present evidence and cross-examine witnesses.

16 “(3) A protective order shall set forth the reasons for the
17 issuance of such order, be specific in terms, describe in reason-
18 able detail (and not by reference to the complaint or other doc-
19 ument) the act or acts being restrained.

20 “(4) The court shall set the duration of effect of the protec-
21 tive order for such period as the court determines necessary to
22 prevent harassment of the victim or witness but in no case for
23 a period in excess of three years from the date of such order’s
24 issuance. The attorney for the Government may, at any time
25 within ninety days before the expiration of such order, apply
26 for a new protective order under this section.

27 “(c) DEFINITIONS.—As used in this section—

28 “(1) the term ‘harassment’ means a course of conduct
29 directed at a specific person that—

30 “(A) causes substantial emotional distress in such
31 person; and

32 “(B) serves no legitimate purpose; and

33 “(2) the term ‘course of conduct’ means a series of acts
34 over a period of time, however short, indicating a continuity
35 of purpose.

1 **“§ 1140. Civil action to protect against retaliation**
2 **in fraud cases**

3 “(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF
4 PUBLICLY TRADED COMPANIES.—No company with a class of
5 securities registered under section 12 of the Securities Ex-
6 change Act of 1934 (15 U.S.C. 78l), or that is required to file
7 reports under section 15(d) of the Securities Exchange Act of
8 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor,
9 subcontractor, or agent of such company, may discharge, de-
10 mote, suspend, threaten, harass, or in any other manner dis-
11 criminate against an employee in the terms and conditions of
12 employment because of any lawful act done by the employee—

13 “(1) to provide information, cause information to be pro-
14 vided, or otherwise assist in an investigation regarding any
15 conduct which the employee reasonably believes constitutes
16 a violation of section 801, 803, 804, or 807, any rule or
17 regulation of the Securities and Exchange Commission, or
18 any provision of Federal law relating to fraud against
19 shareholders, when the information or assistance is pro-
20 vided to or the investigation is conducted by—

21 “(A) a Federal regulatory or law enforcement agen-
22 cy;

23 “(B) any Member of Congress or any committee of
24 Congress; or

25 “(C) a person with supervisory authority over the
26 employee (or such other person working for the em-
27 ployer who has the authority to investigate, discover, or
28 terminate misconduct); or

29 “(2) to file, cause to be filed, testify, participate in, or
30 otherwise assist in a proceeding filed or about to be filed
31 (with any knowledge of the employer) relating to an alleged
32 violation of section 801, 803, 804, or 807, any rule or reg-
33 ulation of the Securities and Exchange Commission, or any
34 provision of Federal law relating to fraud against share-
35 holders.

36 “(b) ENFORCEMENT ACTION.—

1 “(1) IN GENERAL.—A person who alleges discharge or
2 other discrimination by any person in violation of sub-
3 section (a) may seek relief under subsection (c), by—

4 “(A) filing a complaint with the Secretary of Labor;

5 or

6 “(B) if the Secretary has not issued a final decision
7 within 180 days of the filing of the complaint and there
8 is no showing that such delay is due to the bad faith
9 of the claimant, bringing an action at law or equity for
10 de novo review in the appropriate district court of the
11 United States, which shall have jurisdiction over such
12 an action without regard to the amount in controversy.

13 “(2) PROCEDURE.—

14 “(A) IN GENERAL.—An action under paragraph
15 (1)(A) shall be governed under the rules and proce-
16 dures set forth in section 42121(b) of title 49, United
17 States Code.

18 “(B) EXCEPTION.—Notification made under section
19 42121(b)(1) of title 49, United States Code, shall be
20 made to the person named in the complaint and to the
21 employer.

22 “(C) BURDENS OF PROOF.—An action brought
23 under paragraph (1)(B) shall be governed by the legal
24 burdens of proof set forth in section 42121(b) of title
25 49, United States Code.

26 “(D) STATUTE OF LIMITATIONS.—An action under
27 paragraph (1) shall be commenced not later than 90
28 days after the date on which the violation occurs.

29 “(c) REMEDIES.—

30 “(1) IN GENERAL.—An employee prevailing in any action
31 under subsection (b)(1) shall be entitled to all relief nec-
32 essary to make the employee whole.

33 “(2) COMPENSATORY DAMAGES.—Relief for any action
34 under paragraph (1) shall include—

35 “(A) reinstatement with the same seniority status
36 that the employee would have had, but for the discrimi-
37 nation;

1 “(B) the amount of back pay, with interest; and

2 “(C) compensation for any special damages sus-
3 tained as a result of the discrimination, including liti-
4 gation costs, expert witness fees, and reasonable attor-
5 ney fees.

6 “(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this
7 section shall be deemed to diminish the rights, privileges, or
8 remedies of any employee under any Federal or State law, or
9 under any collective bargaining agreement.

10 **“§ 1141. Definitions for certain provisions; general**
11 **provision**

12 “(a) DEFINITIONS FOR SECTIONS 1137 AND 1138.—As used
13 in sections 1137 and 1138 and in this section—

14 “(1) the term ‘official proceeding’ means—

15 “(A) a proceeding before a judge or court of the
16 United States, a United States magistrate judge, a
17 bankruptcy judge, a judge of the United States Tax
18 Court, a special trial judge of the Tax Court, a judge
19 of the United States Court of Federal Claims, or a
20 Federal grand jury;

21 “(B) a proceeding before the Congress;

22 “(C) a proceeding before a Federal Government
23 agency which is authorized by law; or

24 “(D) a proceeding involving the business of insur-
25 ance whose activities affect interstate commerce before
26 any insurance regulatory official or agency or any
27 agent or examiner appointed by such official or agency
28 to examine the affairs of any person engaged in the
29 business of insurance whose activities affect interstate
30 commerce;

31 “(2) the term ‘physical force’ means physical action
32 against another, and includes confinement;

33 “(3) the term ‘misleading conduct’ means—

34 “(A) knowingly making a false statement;

35 “(B) intentionally omitting information from a state-
36 ment and thereby causing a portion of such statement
37 to be misleading, or intentionally concealing a material

1 fact, and thereby creating a false impression by such
2 statement;

3 “(C) with intent to mislead, knowingly submitting or
4 inviting reliance on a writing or recording that is false,
5 forged, altered, or otherwise lacking in authenticity;

6 “(D) with intent to mislead, knowingly submitting or
7 inviting reliance on a sample, specimen, map, photo-
8 graph, boundary mark, or other object that is mis-
9 leading in a material respect; or

10 “(E) knowingly using a trick, scheme, or device with
11 intent to mislead;

12 “(4) the term ‘law enforcement officer’ means an officer
13 or employee of the Federal Government, or a person au-
14 thorized to act for or on behalf of the Federal Government
15 or serving the Federal Government as an adviser or con-
16 sultant—

17 “(A) authorized under law to engage in or supervise
18 the prevention, detection, investigation, or prosecution
19 of an offense; or

20 “(B) serving as a probation or pretrial services offi-
21 cer under this title;

22 “(5) the term ‘corruptly persuades’ does not include con-
23 duct which would be misleading conduct but for a lack of
24 a state of mind.

25 “(b) DEFINITION FOR SECTION 1133.—As used in section
26 1505, the term ‘corruptly’ means acting with an improper pur-
27 pose, personally or by influencing another, including making a
28 false or misleading statement, or withholding, concealing, alter-
29 ing, or destroying a document or other information.

30 “(c) EXCLUSION.—This subchapter does not prohibit or pun-
31 ish the providing of lawful, bona fide, legal representation serv-
32 ices in connection with or anticipation of an official proceeding.

33 **“§ 1142. Destruction of corporate audit records**

34 “(a) REGULATORY REQUIREMENTS.—(1) Any accountant
35 who conducts an audit of an issuer of securities to which sec-
36 tion 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C.
37 78j-1(a)) applies, shall maintain all audit or review workpapers

1 for a period of 5 years from the end of the fiscal period in
2 which the audit or review was concluded.

3 “(2) The Securities and Exchange Commission shall promul-
4 gate, within 180 days, after adequate notice and an opportunity
5 for comment, such rules and regulations, as are reasonably nec-
6 essary, relating to the retention of relevant records such as
7 workpapers, documents that form the basis of an audit or re-
8 view, memoranda, correspondence, communications, other docu-
9 ments, and records (including electronic records) which are cre-
10 ated, sent, or received in connection with an audit or review
11 and contain conclusions, opinions, analyses, or financial data
12 relating to such an audit or review, which is conducted by any
13 accountant who conducts an audit of an issuer of securities to
14 which section 10A(a) of the Securities Exchange Act of 1934
15 (15 U.S.C. 78j-1(a)) applies. The Commission may, from time
16 to time, amend or supplement the rules and regulations that
17 it is required to promulgate under this section, after adequate
18 notice and an opportunity for comment, in order to ensure that
19 such rules and regulations adequately comport with the pur-
20 poses of this section.

21 “(b) OFFENSE.—Whoever knowingly violates subsection
22 (a)(1), or any rule or regulation promulgated by the Securities
23 and Exchange Commission under subsection (a)(2), shall be
24 imprisoned not more than 10 years.

25 “(c) RULE OF CONSTRUCTION.—Nothing in this section shall
26 be deemed to diminish or relieve any person of any other duty
27 or obligation imposed by Federal or State law or regulation to
28 maintain, or refrain from destroying, any document.

29 “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.

30 **“§ 1161. Providing or possessing contraband in**
31 **prison**

32 “(a) OFFENSE.—Whoever—

1 “(1) in violation of a statute or a rule or order issued
2 under a statute, provides to an inmate of a prison a prohib-
3 ited object, or attempts to do so; or

4 “(2) being an inmate of a prison, makes, possesses, or
5 obtains, or attempts to make or obtain, a prohibited object;
6 shall be punished as provided in subsection (b) of this section.

7 “(b) PUNISHMENT.—The punishment for an offense under
8 this section is a fine under this title or—

9 “(1) imprisonment for not more than 20 years, or both,
10 if the object is specified in subsection (d)(1)(C) of this sec-
11 tion;

12 “(2) imprisonment for not more than 10 years, or both,
13 if the object is specified in subsection (d)(1)(A) of this sec-
14 tion;

15 “(3) imprisonment for not more than 5 years, or both,
16 if the object is specified in subsection (d)(1)(B) of this sec-
17 tion;

18 “(4) imprisonment for not more than one year, or both,
19 if the object is specified in subsection (d)(1)(D) or
20 (d)(1)(E) of this section; and

21 “(5) imprisonment for not more than 6 months, or both,
22 if the object is specified in subsection (d)(1)(F) of this sec-
23 tion.

24 “(c) CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN
25 CASES.—Any punishment imposed under subsection (b) for a
26 violation of this section involving a controlled substance shall
27 be consecutive to any other sentence imposed by any court for
28 an offense involving such a controlled substance. Any punish-
29 ment imposed under subsection (b) for a violation of this sec-
30 tion by an inmate of a prison shall be consecutive to the sen-
31 tence being served by such inmate at the time the inmate com-
32 mits such violation.

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

34 “(1) the term ‘prohibited object’ means—

35 “(A) a firearm or destructive device or a controlled
36 substance in schedule I or II, other than marijuana or

1 a controlled substance referred to in subparagraph (C)
2 of this subsection;

3 “(B) marijuana or a controlled substance in schedule
4 III, other than a controlled substance referred to in
5 subparagraph (C) of this subsection, ammunition, a
6 weapon (other than a firearm or destructive device), or
7 an object that is designed or intended to be used as a
8 weapon or to facilitate escape from a prison;

9 “(C) a narcotic drug, methamphetamine, its salts,
10 isomers, and salts of its isomers, lysergic acid
11 diethylamide, or phencyclidine;

12 “(D) a controlled substance (other than a controlled
13 substance referred to in subparagraph (A), (B), or (C)
14 of this subsection) or an alcoholic beverage;

15 “(E) any United States or foreign currency; and

16 “(F) any other object that threatens the order, dis-
17 cipline, or security of a prison, or the life, health, or
18 safety of an individual;

19 “(2) the terms ‘ammunition’, ‘firearm’, and ‘destructive
20 device’ have, respectively, the meanings given those terms
21 in section 921 of this title;

22 “(3) the terms ‘controlled substance’ and ‘narcotic drug’
23 have, respectively, the meanings given those terms in sec-
24 tion 102 of the Controlled Substances Act (21 U.S.C. 802);
25 and

26 “(4) the term ‘prison’ means a Federal correctional, de-
27 tention, or penal facility or any prison, institution, or facil-
28 ity in which persons are held in custody by direction of or
29 pursuant to a contract or agreement with the Attorney
30 General.

31 **“§ 1162. Mutiny and riot prohibited**

32 “Whoever instigates, connives, willfully attempts to cause,
33 assists, or conspires to cause any mutiny or riot, at any Fed-
34 eral penal, detention, or correctional facility, shall be impris-
35 oned not more than ten years.

1 **“§ 1163. Trespass on Bureau of Prisons reserva-**
 2 **tions and land**

3 “Whoever, without lawful authority or permission, goes upon
 4 a reservation, land, or a facility of the Bureau of Prisons shall
 5 be imprisoned not more than six months.

6 “SUBCHAPTER K—PUBLIC OFFICERS AND
 7 EMPLOYEES

“Sec.

“1171. Disclosure of confidential information generally.

8 **“§ 1171. Disclosure of confidential information**
 9 **generally**

10 “Whoever, being an officer or employee of the United States
 11 or of any department or agency thereof, any person acting on
 12 behalf of the Office of Federal Housing Enterprise Oversight,
 13 or agent of the Department of Justice as defined in the Anti-
 14 trust Civil Process Act (15 U.S.C. 1311–1314), or being an
 15 employee of a private sector organization who is or was as-
 16 signed to an agency under chapter 37 of title 5, publishes, di-
 17 vulges, discloses, or makes known in any manner or to any ex-
 18 tent not authorized by law any information coming to him in
 19 the course of his employment or official duties or by reason of
 20 any examination or investigation made by, or return, report or
 21 record made to or filed with, such department or agency or of-
 22 ficer or employee thereof, which information concerns or relates
 23 to the trade secrets, processes, operations, style of work, or ap-
 24 paratus, or to the identity, confidential statistical data, amount
 25 or source of any income, profits, losses, or expenditures of any
 26 person, firm, partnership, corporation, or association; or per-
 27 mits any income return or copy thereof or any book containing
 28 any abstract or particulars thereof to be seen or examined by
 29 any person except as provided by law; shall be imprisoned not
 30 more than one year; and shall be removed from office or em-
 31 ployment.

32 “SUBCHAPTER L—RECORDS AND REPORTS

“Sec.

“1181. Concealment, removal, or mutilation generally.

“1182. False entries and reports of moneys or securities.

1 **“§ 1181. Concealment, removal, or mutilation gen-**
 2 **erally**

3 “Whoever knowingly and unlawfully conceals, removes, muti-
 4 lates, obliterates, or destroys, or attempts to do so, or, with in-
 5 tent to do so takes and carries away any record, proceeding,
 6 map, book, paper, document, or other thing, filed or deposited
 7 with any clerk or officer of any court of the United States, or
 8 in any public office, or with any judicial or public officer of the
 9 United States, shall be imprisoned not more than three years.

10 **“§ 1182. False entries and reports of moneys or se-**
 11 **curities**

12 “Whoever—

13 “(1) being an officer, clerk, agent, or other employee of
 14 the United States or any of its agencies, charged with the
 15 duty of keeping accounts or records of any kind, with in-
 16 tent to deceive, mislead, injure, or defraud, makes in any
 17 such account or record any false or fictitious entry or
 18 record of any matter relating to or connected with his du-
 19 ties; or

20 “(2) being an officer, clerk, agent, or other employee of
 21 the United States or any of its agencies, charged with the
 22 duty of receiving, holding, or paying over moneys or securi-
 23 ties to, for, or on behalf of the United States, or of receiv-
 24 ing or holding in trust for any person any moneys or secu-
 25 rities, with like intent, makes a false report of such moneys
 26 or securities;

27 shall be imprisoned not more than ten years.

28 **“SUBCHAPTER M—SEARCHES AND SEIZURES**

“Sec.

“1191. Destruction or removal of property to prevent seizure.

“1192. Rescue of seized property.

29 **“§ 1191. Destruction or removal of property to**
 30 **prevent seizure**

31 “(a) DESTRUCTION OR REMOVAL OF PROPERTY TO PRE-
 32 VENT SEIZURE.—Whoever, before, during, or after any search
 33 for or seizure of property by any person authorized to make
 34 such search or seizure, knowingly destroys, damages, wastes,

1 disposes of, transfers, or otherwise takes any action, or know-
2 ingly attempts to destroy, damage, waste, dispose of, transfer,
3 or otherwise take any action, for the purpose of preventing or
4 impairing the Government's lawful authority to take such prop-
5 erty into its custody or control or to continue holding such
6 property under its lawful custody and control, shall be impris-
7 oned not more than 5 years.

8 “(b) IMPAIRMENT OF IN REM JURISDICTION.—Whoever,
9 knowing that property is subject to the in rem jurisdiction of
10 a United States court for purposes of civil forfeiture under
11 Federal law, knowingly and without authority from that court,
12 destroys, damages, wastes, disposes of, transfers, or otherwise
13 takes any action, or knowingly attempts to destroy, damage,
14 waste, dispose of, transfer, or otherwise take any action, for the
15 purpose of impairing or defeating the court's continuing in rem
16 jurisdiction over the property, shall be imprisoned not more
17 than 5 years.

18 “(c) NOTICE OF SEARCH OR EXECUTION OF SEIZURE WAR-
19 RANT OR WARRANT OF ARREST IN REM.—Whoever, having
20 knowledge that any person authorized to make searches and
21 seizures, or to execute a seizure warrant or warrant of arrest
22 in rem, in order to prevent the authorized seizing or securing
23 of any person or property, gives notice or attempts to give no-
24 tice in advance of the search, seizure, or execution of a seizure
25 warrant or warrant of arrest in rem, to any person shall be im-
26 prisoned not more than 5 years.

27 “(d) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—
28 Whoever, having knowledge that a Federal investigative or law
29 enforcement officer has been authorized or has applied for au-
30 thorization under subchapter C of chapter 37 to intercept a
31 wire, oral, or electronic communication, in order to obstruct,
32 impede, or prevent such interception, gives notice or attempts
33 to give notice of the possible interception to any person shall
34 be imprisoned not more than five years.

35 “(e) FOREIGN INTELLIGENCE SURVEILLANCE.—Whoever,
36 having knowledge that a Federal officer has been authorized or
37 has applied for authorization to conduct electronic surveillance

1 under the Foreign Intelligence Surveillance Act of 1978 (50
2 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent
3 such activity, gives notice or attempts to give notice of the pos-
4 sible activity to any person shall be imprisoned not more than
5 five years.

6 **“§ 1192. Rescue of seized property**

7 “Whoever forcibly rescues, dispossesses, or attempts to res-
8 cue or dispossess any property, articles, or objects after the
9 same shall have been taken, detained, or seized by any officer
10 or other person under the authority of any revenue law of the
11 United States, or by any person authorized to make searches
12 and seizures, shall be imprisoned not more than two years.

13 **“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 juris-
diction.

“1204. Tampering with consumer products.

“1205. Destruction of an energy facility.

“1206. Harming animals used in law enforcement.

“1207. Destruction of veterans’ memorials.

14 **“§ 1201. Government property or contracts**

15 “Whoever knowingly and without authority injures or com-
16 mits any depredation against any property of the United
17 States, or of any department or agency thereof, or any property
18 which has been or is being manufactured or constructed for the
19 United States, or any department or agency thereof, or at-
20 tempts to commit any of the foregoing offenses, shall be pun-
21 ished as follows:

22 “(1) If the damage or attempted damage to such prop-
23 erty exceeds the sum of \$1,000, by imprisonment for not
24 more than ten years.

25 “(2) If the damage or attempted damage to such prop-
26 erty does not exceed the sum of \$1,000, by imprisonment
27 for not more than one year.

28 **“§ 1202. Communication lines, stations, or systems**

29 “(a) OFFENSE.—Whoever knowingly and without authority
30 injures or destroys any of the works, property, or material of

1 any radio, telegraph, telephone or cable, line, station, or sys-
2 tem, or other means of communication, operated or controlled
3 by the United States, or used or intended to be used for mili-
4 tary or civil defense functions of the United States, whether
5 constructed or in process of construction, or willfully or mali-
6 ciously interferes in any way with the working or use of any
7 such line, or system, or willfully or maliciously obstructs,
8 hinders, or delays the transmission of any communication over
9 any such line, or system, or attempts or conspires to do such
10 an act, shall be imprisoned not more than ten years.

11 “(b) EXCLUSION.—In the case of any works, property, or
12 material, not operated or controlled by the United States, this
13 section shall not apply to any lawful strike activity, or other
14 lawful concerted activities for the purposes of collective bar-
15 gaining or other mutual aid and protection which do not injure
16 or destroy any line or system used or intended to be used for
17 the military or civil defense functions of the United States.

18 **“§ 1203. Buildings or property within special mar-**
19 **itime and territorial jurisdiction**

20 “Whoever, within the special maritime and territorial jurisdic-
21 tion of the United States, knowingly and without authority
22 destroys or injures any structure, conveyance, or other real or
23 personal property, or attempts or conspires to do such an act,
24 shall be imprisoned not more than five years and if the building
25 be a dwelling, or the life of any person be placed in jeopardy,
26 shall be imprisoned not more than twenty years.

27 **“§ 1204. Tampering with consumer products**

28 “(a) TAMPERING IN GENERAL.—Whoever, with reckless dis-
29 regard for the risk that another person will be placed in danger
30 of death or bodily injury and under circumstances manifesting
31 extreme indifference to such risk, tampers with any consumer
32 product that affects interstate or foreign commerce, or the la-
33 beling of, or container for, any such product, or attempts to do
34 so, shall—

35 “(1) in the case of an attempt, be imprisoned not more
36 than ten years;

1 “(2) if death of an individual results, be imprisoned for
2 any term of years or for life;

3 “(3) if serious bodily injury to any individual results, be
4 imprisoned not more than twenty years; and

5 “(4) in any other case, be imprisoned not more than ten
6 years.

7 “(b) TAINTING WITH INTENT TO CAUSE SERIOUS INJURY
8 THROUGH BUSINESS.—Whoever, with intent to cause serious
9 injury to the business of any person, taints any consumer prod-
10 uct or renders materially false or misleading the labeling of, or
11 container for, a consumer product, if such consumer product
12 affects interstate or foreign commerce, shall be imprisoned not
13 more than three years.

14 “(c) FALSE INFORMATION.—(1) Whoever knowingly commu-
15 nicates false information that a consumer product has been
16 tainted, if such product or the results of such communication
17 affect interstate or foreign commerce, and if such tainting, had
18 it occurred, would create a risk of death or bodily injury to an-
19 other person, shall be imprisoned not more than five years.

20 “(2) As used in paragraph (1) of this subsection, the term
21 ‘communicates false information’ means communicates informa-
22 tion that is false and that the communicator knows is false,
23 under circumstances in which the information may reasonably
24 be expected to be believed.

25 “(d) THREATS.—Whoever knowingly threatens, under cir-
26 cumstances in which the threat may reasonably be expected to
27 be believed, that conduct that, if it occurred, would violate sub-
28 section (a) of this section will occur, shall be imprisoned not
29 more than five years.

30 “(e) CONSPIRACY.—Whoever is a party to a conspiracy of
31 two or more persons to commit an offense under subsection (a)
32 of this section, if any of the parties intentionally engages in any
33 conduct in furtherance of such offense, shall be imprisoned not
34 more than ten years.

35 “(f) TAMPERING WITH WRITING.—(1) Whoever, without the
36 consent of the manufacturer, retailer, or distributor, inten-
37 tionally tampers with a consumer product that is sold in inter-

1 state or foreign commerce by knowingly placing or inserting
2 any writing in the consumer product, or in the container for
3 the consumer product, before the sale of the consumer product
4 to any consumer shall be imprisoned not more than 1 year.

5 “(2) Notwithstanding the provisions of paragraph (1), if any
6 person commits a violation of this subsection after a prior con-
7 viction under this section becomes final, such person shall be
8 imprisoned for not more than 3 years.

9 “(3) In this subsection, the term ‘writing’ means any form
10 of representation or communication, including hand-bills, no-
11 tices, or advertising, that contain letters, words, or pictorial
12 representations.

13 “(g) AUTHORITY OF FOOD AND DRUG ADMINISTRATION AND
14 DEPARTMENT OF AGRICULTURE.—In addition to any other
15 agency which has authority to investigate violations of this sec-
16 tion, the Food and Drug Administration and the Department
17 of Agriculture, respectively, have authority to investigate viola-
18 tions of this section involving a consumer product that is regu-
19 lated by a provision of law such Administration or Department,
20 as the case may be, administers.

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

22 “(1) the term ‘consumer product’ means—

23 “(A) any ‘food’, ‘drug’, ‘device’, or ‘cosmetic’, as
24 those terms are respectively defined in section 201 of
25 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
26 321); or

27 “(B) any article, product, or commodity which is
28 customarily produced or distributed for consumption by
29 individuals, or use by individuals for purposes of per-
30 sonal care or in the performance of services ordinarily
31 rendered within the household, and which is designed
32 to be consumed or expended in the course of such con-
33 sumption or use; and

34 “(2) the term ‘labeling’ has the meaning given such term
35 in section 201(m) of the Federal Food, Drug, and Cosmetic
36 Act (21 U.S.C. 321(m)).

“§ 1205. Destruction of an energy facility

“(a) DAMAGE EXCEEDING \$100,000.—Whoever knowingly and without authority—

“(1) damages the property of an energy facility in an amount that exceeds \$100,000; or

“(2) damages the property of an energy facility in any amount and thereby causes a significant interruption or impairment of a function of an energy facility;

shall be imprisoned for not more than 20 years.

“(b) DAMAGE EXCEEDING \$5,000.—Whoever knowingly and without authority damages the property of an energy facility in an amount that exceeds \$5,000 shall be imprisoned for not more than five years.

“(c) DEFINITION.—As used in this section, the term ‘energy facility’ means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.

“(d) INCREASED PUNISHMENT WHERE DEATH RESULTS.—Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.

“§ 1206. Harming animals used in law enforcement

“(a) OFFENSE.—Whoever maliciously harms any police animal, or attempts or conspires to do so, shall be imprisoned not more than 1 year. If the offense permanently disables or disfigures the animal, or causes serious bodily injury to or the death of the animal, the maximum term of imprisonment shall be 10 years.

“(b) DEFINITION.—In this section, the term ‘police animal’ means a dog or horse employed by a Federal agency (whether

1 in the executive, legislative, or judicial branch) for the principal
 2 purpose of aiding in the detection of criminal activity, enforce-
 3 ment of laws, or apprehension of criminal offenders.

4 **“§ 1207. Destruction of veterans’ memorials**

5 “(a) OFFENSE.—Whoever, as made applicable by subsection
 6 (b), knowingly and without authority injures or destroys any
 7 structure, plaque, statue, or other monument on public prop-
 8 erty commemorating the service of any person or persons in the
 9 armed forces of the United States shall be imprisoned not more
 10 than 10 years.

11 “(b) FEDERAL NEXUS.—Subsection (a) applies if—

12 “(1) in committing the offense, the defendant travels or
 13 causes another to travel in interstate or foreign commerce,
 14 or uses the mail or an instrumentality of interstate or for-
 15 eign commerce; or

16 “(2) the structure, plaque, statue, or other monument is
 17 located on property owned by, or under the jurisdiction of,
 18 the Federal Government.

19 **“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.

20 **“§ 1211. Timber removed or transported**

21 “(a) OFFENSE.—Whoever knowingly and without author-
 22 ity—

23 “(1) cuts or destroys any timber growing on the public
 24 lands of the United States;

25 “(2) removes any timber from those public lands, with
 26 intent to export or to dispose of that timber; or

27 “(3) being the owner, master, pilot, operator, or con-
 28 signee of any vessel, motor vehicle, or aircraft or the owner,
 29 director, or agent of any railroad, knowingly transports any
 30 timber so cut or removed, or lumber manufactured from
 31 that timber;

32 shall be imprisoned not more than one year.

1 “(b) EXCLUSION.—This section does not prevent any miner
2 or agriculturist from clearing land in the ordinary working of
3 the miner’s mining claim, or in the preparation of the
4 agriculturalist’s farm for tillage, or from taking the timber nec-
5 essary to support improvements, or the taking of timber for the
6 use of the United States; nor shall it interfere with or take
7 away any right or privilege under any existing law of the
8 United States to cut or remove timber from any public lands.

9 **“§ 1212. Trees cut or injured**

10 “Whoever knowingly and without authority cuts, injures, or
11 destroys any tree growing, standing, or being upon any land of
12 the United States which, in pursuance of law, has been re-
13 served or purchased by the United States for any public use,
14 or upon any Indian reservation, or lands belonging to or occu-
15 pied by any tribe of Indians under the authority of the United
16 States, or any Indian allotment while the title to the same shall
17 be held in trust by the Government, or while the same shall re-
18 main inalienable by the allottee without the consent of the
19 United States, shall be imprisoned not more than one year.

20 **“§ 1213. Timber set afire**

21 “(a) OFFENSE.—Whoever, knowingly and without authority,
22 sets on fire any timber, underbrush, or grass or other inflam-
23 mable material upon the public domain or upon any lands
24 owned or leased by or under the partial, concurrent, or exclu-
25 sive jurisdiction of the United States, or under contract for
26 purchase or for the acquisition of which condemnation pro-
27 ceedings have been instituted, or upon any Indian reservation
28 or lands belonging to or occupied by any tribe or group of Indi-
29 ans under authority of the United States, or upon any Indian
30 allotment while the title to the same shall be held in trust by
31 the Government, or while the same shall remain inalienable by
32 the allottee without the consent of the United States, shall be
33 imprisoned not more than five years.

34 “(b) EXCLUSION.—This section does not apply in the case of
35 a fire set by an allottee in the reasonable exercise of his propri-
36 etary rights in the allotment.

“§ 1214. Fires left unattended and unextinguished

“Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers the fire to burn or spread beyond his control, or leaves or suffers the fire to burn unattended, shall be imprisoned not more than six months.

“§ 1215. Trespass on national forest lands

“Whoever, without authority goes upon any national-forest land while it is closed to the public pursuant to lawful regulation of the Secretary of Agriculture, shall be imprisoned not more than six months.

“§ 1216. Hazardous or injurious devices on Federal lands

“(a) ELEMENTS OF THE OFFENSE.—Whoever—

“(1) with the intent to violate the Controlled Substances Act,

“(2) with the intent to obstruct or harass the harvesting of timber, or

“(3) with reckless disregard to the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk,

uses a hazardous or injurious device on Federal land, on an Indian reservation, or on an Indian allotment while the title to such allotment is held in trust by the United States or while such allotment remains inalienable by the allottee without the

1 consent of the United States shall be punished under sub-
2 section (b).

3 “(b) PUNISHMENT.—An individual who violates subsection
4 (a) shall—

5 “(1) if death of an individual results, be imprisoned for
6 any term of years or for life;

7 “(2) if serious bodily injury to any individual results, be
8 imprisoned for not more than 40 years;

9 “(3) if bodily injury to any individual results, be impris-
10 oned for not more than 20 years;

11 “(4) if damage to the property of any individual results
12 or if avoidance costs have been incurred exceeding \$10,000,
13 in the aggregate, be imprisoned for not more than 20
14 years; and

15 “(5) in any other case, be imprisoned for not more than
16 one year.

17 “(c) INCREASED PUNISHMENT.—Any individual who is pun-
18 ished under subsection (b)(5) after one or more prior convic-
19 tions under any such subsection shall be imprisoned for not
20 more than 20 years.

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

22 “(1) the term ‘hazardous or injurious device’ means a
23 device, which when assembled or placed, is capable of caus-
24 ing bodily injury, or damage to property, by the action of
25 any person making contact with such device subsequent to
26 the assembly or placement. Such term includes guns at-
27 tached to trip wires or other triggering mechanisms, ammu-
28 nition attached to trip wires or other triggering mecha-
29 nisms, or explosive devices attached to trip wires or other
30 triggering mechanisms, sharpened stakes, lines or wires,
31 lines or wires with hooks attached, nails placed so that the
32 sharpened ends are positioned in an upright manner, or
33 tree spiking devices including spikes, nails, or other objects
34 hammered, driven, fastened, or otherwise placed into or on
35 any timber, whether or not severed from the stump; and

36 “(2) the term ‘avoidance costs’ means costs incurred by
37 any individual for the purpose of—

1 “(A) detecting a hazardous or injurious device; or

2 “(B) preventing death, serious bodily injury, bodily
3 injury, or property damage likely to result from the use
4 of a hazardous or injurious device in violation of sub-
5 section (a).

6 “(e) CIVIL ACTION.— Any person injured as the result of a
7 violation of subsection (a) may commence a civil action on his
8 own behalf against any person who is alleged to be in violation
9 of subsection (a). The district courts shall have jurisdiction,
10 without regard to the amount in controversy or the citizenship
11 of the parties, in such civil actions. The court may award, in
12 addition to monetary damages for any injury resulting from an
13 alleged violation of subsection (a), costs of litigation, including
14 reasonable attorney and expert witness fees, to any prevailing
15 or substantially prevailing party, whenever the court determines
16 such award is appropriate.

17 “SUBCHAPTER P—RESTRICTED BUILDING OR
18 GROUNDS

“Sec.

“1221. Restricted building or grounds.

19 “§ 1221. **Restricted building or grounds**

20 “(a) PROHIBITIONS.—It shall be unlawful for any person or
21 group of persons—

22 “(1) willfully and knowingly to enter or remain in any
23 posted, cordoned off, or otherwise restricted area of a
24 building or grounds where the President or other person
25 protected by the Secret Service is or will be temporarily vis-
26 iting;

27 “(2) willfully and knowingly to enter or remain in any
28 posted, cordoned off, or otherwise restricted area of a
29 building or grounds so restricted in conjunction with an
30 event designated as a special event of national significance;

31 “(3) willfully, knowingly, and with intent to impede or
32 disrupt the orderly conduct of Government business or offi-
33 cial functions, to engage in disorderly or disruptive conduct
34 in, or within such proximity to, any building or grounds de-
35 scribed in paragraph (1) or (2) when, or so that, such con-

duct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

“(4) willfully and knowingly to obstruct or impede ingress or egress to or from any building, grounds, or area described in paragraph (1) or (2); or

“(5) willfully and knowingly to engage in any act of physical violence against any person or property in any building, grounds, or area described in paragraph (1) or (2).

“(b) PUNISHMENT.—Violation of this section shall be punishable by—

“(1) imprisonment for not more than 10 years, if—

“(A) the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

“(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

“(2) imprisonment for not more than one year, in any other case.

“(c) PLACE OF PROSECUTION.—Violation of this section, and attempts or conspiracies to commit such violations, shall be prosecuted by the United States attorney in the Federal district court having jurisdiction of the place where the offense occurred.

“(d) EFFECT ON STATE LAW.—None of the laws of the United States or of the several States and the District of Columbia are superseded by this section.

“(e) DEFINITION.—As used in this section, the term ‘other person protected by the Secret Service’ means any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection.

“CHAPTER 31—INTERNATIONAL LAW CRIMES

| “Subchapter | Sec. |
|--|------|
| “A. Piracy and privateering | 1251 |
| “B. Peonage, slavery, and trafficking in persons Assault | 1261 |
| “C. Genocide | 1281 |

| | |
|-----------------------------|-------------|
| “D. Torture | 1291 |
| “E. War crimes | 1296 |

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 piracy as
4 defined by the law of nations, and is afterwards brought into
5 or found in the United States, shall be imprisoned for life.

6 “SUBCHAPTER B—PEONAGE, SLAVERY, AND
7 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.

8 **“§ 1261. Peonage**

9 “Whoever holds or returns any person to a condition of peon-
10 age, or arrests any person with the intent of placing him in or
11 returning him to a condition of peonage, shall be imprisoned
12 not more than 20 years. If death results from the violation of
13 this section, or if the violation includes kidnapping or an at-
14 tempt to kidnap, aggravated sexual abuse or the attempt to
15 commit aggravated sexual abuse, or an attempt to kill, the de-
16 fendant shall be imprisoned for any term of years or life.

17 **“§ 1262. Sale into involuntary servitude**

18 “Whoever knowingly holds to involuntary servitude or sells
19 into any condition of involuntary servitude, any other person
20 for any term, or brings within the United States any person
21 so held, shall be imprisoned not more than 20 years. If death
22 results from the violation of this section, or if the violation in-
23 cludes kidnapping or an attempt to kidnap, aggravated sexual
24 abuse or the attempt to commit aggravated sexual abuse, or an
25 attempt to kill, the defendant shall be imprisoned for any term
26 of years or life.

1 **“§ 1263. Forced labor**

2 “Whoever knowingly provides or obtains the labor or services
3 of a person—

4 “(1) by threats of serious harm to, or physical restraint
5 against, that person or another person;

6 “(2) by means of any scheme, plan, or pattern intended
7 to cause the person to believe that, if the person did not
8 perform such labor or services, that person or another per-
9 son would suffer serious harm or physical restraint; or

10 “(3) by means of the abuse or threatened abuse of law
11 or the legal process,

12 shall be imprisoned not more than 20 years. If death results
13 from the violation of this section, or if the violation includes
14 kidnapping or an attempt to kidnap, aggravated sexual abuse
15 or the attempt to commit aggravated sexual abuse, or an at-
16 tempt to kill, the defendant shall be imprisoned for any term
17 of years or life.

18 **“§ 1264. Trafficking with respect to peonage, slav-**
19 **ery, involuntary servitude, or forced labor**

20 “Whoever knowingly recruits, harbors, transports, provides,
21 or obtains by any means, any person for labor or services in
22 violation of this chapter shall be imprisoned not more than 20
23 years. If death results from the violation of this section, or if
24 the violation includes kidnapping or an attempt to kidnap, ag-
25 gravated sexual abuse, or the attempt to commit aggravated
26 sexual abuse, or an attempt to kill, the defendant shall be im-
27 prisoned for any term of years or life.

28 **“§ 1265. Sex trafficking of children or by force,**
29 **fraud, or coercion**

30 “(a) ELEMENTS OF THE OFFENSE.—Whoever knowingly—

31 “(1) in or affecting interstate or foreign commerce, or
32 within the special maritime and territorial jurisdiction of
33 the United States, recruits, entices, harbors, transports,
34 provides, or obtains by any means a person; or

35 “(2) benefits, financially or by receiving anything of
36 value, from participation in a venture which has engaged
37 in an act described in violation of paragraph (1),

1 knowing that force, fraud, or coercion described in subsection
2 (c)(2) will be used to cause the person to engage in a commer-
3 cial sex act, or that the person has not attained the age of 18
4 years and will be caused to engage in a commercial sex act,
5 shall be punished as provided in subsection (b).

6 “(b) PUNISHMENT.—The punishment for an offense under
7 subsection (a) is—

8 “(1) if the offense was effected by force, fraud, or coer-
9 cion or if the person recruited, enticed, harbored, trans-
10 ported, provided, or obtained had not attained the age of
11 14 years at the time of such offense, by a fine under this
12 title or imprisonment for any term of years or for life, or
13 both; or

14 “(2) if the offense was not so effected, and the person
15 recruited, enticed, harbored, transported, provided, or ob-
16 tained had attained the age of 14 years but had not at-
17 tained the age of 18 years at the time of such offense, by
18 a fine under this title or imprisonment for not more than
19 40 years, or both.

20 “(c) DEFINITIONS.—As used in this section—

21 “(1) the term ‘commercial sex act’ means any sex act,
22 on account of which anything of value is given to or re-
23 ceived by any person;

24 “(2) the term ‘coercion’ means—

25 “(A) threats of serious harm to or physical restraint
26 against any person;

27 “(B) any scheme, plan, or pattern intended to cause
28 a person to believe that failure to perform an act would
29 result in serious harm to or physical restraint against
30 any person; or

31 “(C) the abuse or threatened abuse of law or the
32 legal process; and

33 “(3) the term ‘venture’ means any group of two or more
34 individuals associated in fact, whether or not a legal entity.

1 **“§ 1266. Unlawful conduct with respect to docu-**
2 **ments in furtherance of trafficking, peon-**
3 **age, slavery, involuntary servitude, or**
4 **forced labor**

5 “(a) OFFENSE.—Whoever knowingly destroys, conceals, re-
6 moves, confiscates, or possesses any actual or purported pass-
7 port or other immigration document, or any other actual or
8 purported government identification document, of another per-
9 son—

10 “(1) in the course of a violation of section 1261, 1262,
11 1263, 1264, or 1265;

12 “(2) with intent to violate section 1261, 1262, 1263,
13 1264, or 1265; or

14 “(3) to prevent or restrict or to attempt to prevent or
15 restrict, without lawful authority, the person’s liberty to
16 move or travel, in order to maintain the labor or services
17 of that person, when the person is or has been a victim of
18 a severe form of trafficking in persons, as defined in sec-
19 tion 103 of the Trafficking Victims Protection Act of 2000,
20 shall be imprisoned for not more than 5 years.

21 “(b) EXCLUSION.—Subsection (a) does not apply to the con-
22 duct of a person who is or has been a victim of a severe form
23 of trafficking in persons, as defined in section 103 of the Traf-
24 ficking Victims Protection Act of 2000, if that conduct is
25 caused by, or incident to, that trafficking.

26 **“§ 1267. Civil remedy**

27 “(a) CIVIL ACTION.—An individual who is a victim of a vio-
28 lation of section 1263, 1264, or 1265 may bring a civil action
29 against the perpetrator in an appropriate district court of the
30 United States and may recover damages and reasonable attor-
31 neys fees.

32 “(b) STAY.—(1) Any civil action filed under this section shall
33 be stayed during the pendency of any criminal action arising
34 out of the same occurrence in which the claimant is the victim.

35 “(2) In this subsection, a ‘criminal action’ includes investiga-
36 tion and prosecution and is pending until final adjudication in
37 the trial court.

“SUBCHAPTER C—GENOCIDE

1 “Sec.

“1281. Genocide.

“1282. Definitions.

2 **“§ 1281. Genocide**

3 “(a) BASIC OFFENSE.—Whoever, whether in time of peace
4 or in time of war, in a circumstance described in subsection (d)
5 and with the specific intent to destroy, in whole or in substan-
6 tial part, a national, ethnic, racial, or religious group as such—

7 “(1) kills members of that group;

8 “(2) causes serious bodily injury to members of that
9 group;

10 “(3) causes the permanent impairment of the mental fac-
11 ulties of members of the group through drugs, torture, or
12 similar techniques;

13 “(4) subjects the group to conditions of life that are in-
14 tended to cause the physical destruction of the group in
15 whole or in part;

16 “(5) imposes measures intended to prevent births within
17 the group; or

18 “(6) transfers by force children of the group to another
19 group;

20 or attempts to do so, shall be punished as provided in sub-
21 section (b).

22 “(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment
23 for an offense under subsection (a) is—

24 “(1) in the case of an offense under subsection (a)(1),
25 where death results, by death or imprisonment for life and
26 a fine of not more than \$1,000,000, or both; and

27 “(2) a fine of not more than \$1,000,000 or imprison-
28 ment for not more than twenty years, or both, in any other
29 case.

30 “(c) INCITEMENT OFFENSE.—Whoever in a circumstance de-
31 scribed in subsection (d) directly and publicly incites another
32 to violate subsection (a) shall be imprisoned not more than five
33 years.

1 “(d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The cir-
2 cumstance referred to in subsections (a) and (c) is that—

3 “(1) the offense is committed within the United States;

4 or

5 “(2) the alleged offender is a national of the United
6 States (as defined in section 101 of the Immigration and
7 Nationality Act (8 U.S.C. 1101)).

8 “(e) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Not-
9 withstanding section 3282 of this title, in the case of an offense
10 under subsection (a)(1), an indictment may be found, or infor-
11 mation instituted, at any time without limitation.

12 **“§ 1282. Definitions**

13 “As used in this subchapter—

14 “(1) the term ‘children’ means the plural and means in-
15 dividuals who have not attained the age of eighteen years;

16 “(2) the term ‘ethnic group’ means a set of individuals
17 whose identity as such is distinctive in terms of common
18 cultural traditions or heritage;

19 “(3) the term ‘incites’ means urges another to engage
20 imminently in conduct in circumstances under which there
21 is a substantial likelihood of imminently causing such con-
22 duct;

23 “(4) the term ‘members’ means the plural;

24 “(5) the term ‘national group’ means a set of individuals
25 whose identity as such is distinctive in terms of nationality
26 or national origins;

27 “(6) the term ‘racial group’ means a set of individuals
28 whose identity as such is distinctive in terms of physical
29 characteristics or biological descent;

30 “(7) the term ‘religious group’ means a set of individuals
31 whose identity as such is distinctive in terms of common
32 religious creed, beliefs, doctrines, practices, or rituals; and

33 “(8) the term ‘substantial part’ means a part of a group
34 of such numerical significance that the destruction or loss
35 of that part would cause the destruction of the group as
36 a viable entity within the nation of which such group is a
37 part.

“SUBCHAPTER D—TORTURE

1 “Sec.

“1291. Torture.

“1292. Definitions.

2 **“§ 1291. Torture**

3 “(a) OFFENSE.—Whoever outside the United States commits
4 or attempts to commit torture shall be imprisoned not more
5 than 20 years and if death results to any person from conduct
6 prohibited by this subsection, shall be punished by death or im-
7 prisoned for any term of years or for life.

8 “(b) JURISDICTION.—There is jurisdiction over the activity
9 prohibited in subsection (a) if—

10 “(1) the alleged offender is a national of the United
11 States; or

12 “(2) the alleged offender is present in the United States,
13 irrespective of the nationality of the victim or alleged of-
14 fender.

15 “(c) CONSPIRACY.—A person who conspires to commit an of-
16 fense under this section shall be subject to the same penalties
17 (other than the penalty of death) as the penalties prescribed for
18 the offense, the commission of which was the object of the con-
19 spiracy.

20 **“§ 1292. Definitions**

21 “As used in this subchapter—

22 “(1) the term ‘torture’ means an act committed by a per-
23 son acting under the color of law specifically intended to
24 inflict severe physical or mental pain or suffering (other
25 than pain or suffering incidental to lawful sanctions) upon
26 another person within his custody or physical control; and

27 “(2) the term ‘severe mental pain or suffering’ means
28 the prolonged mental harm caused by or resulting from—

29 “(A) the intentional infliction or threatened infliction
30 of severe physical pain or suffering;

31 “(B) the administration or application, or threatened
32 administration or application, of mind-altering sub-
33 stances or other procedures calculated to disrupt pro-
34 foundly the senses or the personality;

1 “(C) the threat of imminent death; or

2 “(D) the threat that another person will imminently
3 be subjected to death, severe physical pain or suffering,
4 or the administration or application of mind-altering
5 substances or other procedures calculated to disrupt
6 profoundly the senses or personality.

7 “SUBCHAPTER E—WAR CRIMES

“Sec.

“1296. War crimes.

8 **“§ 1296. War crimes**

9 “(a) OFFENSE.—Whoever, whether inside or outside the
10 United States, commits a war crime, in any of the cir-
11 cumstances described in subsection (b), shall be imprisoned for
12 life or any term of years and if death results to the victim,
13 shall also be subject to the penalty of death.

14 “(b) CIRCUMSTANCES.—The circumstances referred to in
15 subsection (a) are that the person committing such war crime
16 or the victim of such war crime is a member of the Armed
17 Forces of the United States or a national of the United States
18 (as defined in section 101 of the Immigration and Nationality
19 Act).

20 “(c) DEFINITION.—As used in this section the term ‘war
21 crime’ means any conduct—

22 “(1) defined as a grave breach in any of the inter-
23 national conventions signed at Geneva 12 August 1949, or
24 any protocol to such convention to which the United States
25 is a party;

26 “(2) prohibited by Article 23, 25, 27, or 28 of the Annex
27 to the Hague Convention IV, Respecting the Laws and
28 Customs of War on Land, signed 18 October 1907;

29 “(3) which constitutes a grave breach of common Article
30 3 (as defined in subsection (d)) when committed in the con-
31 text of and in association with an armed conflict not of an
32 international character; or

33 “(4) of a person who, in relation to an armed conflict
34 and contrary to the provisions of the Protocol on Prohibi-
35 tions or Restrictions on the Use of Mines, Booby-Traps and

1 Other Devices as amended at Geneva on 3 May 1996 (Pro-
2 tocol II as amended on 3 May 1996), when the United
3 States is a party to such Protocol, willfully kills or causes
4 serious injury to civilians.

5 “(d) COMMON ARTICLE 3 VIOLATIONS.—

6 “(1) PROHIBITED CONDUCT.—In subsection (c)(3), the
7 term ‘grave breach of common Article 3’ means any con-
8 duct (such conduct constituting a grave breach of common
9 Article 3 of the international conventions done at Geneva
10 August 12, 1949), as follows:

11 “(A) TORTURE.—The act of a person who commits,
12 or conspires or attempts to commit, an act specifically
13 intended to inflict severe physical or mental pain or
14 suffering (other than pain or suffering incidental to
15 lawful sanctions) upon another person within his cus-
16 tody or physical control for the purpose of obtaining in-
17 formation or a confession, punishment, intimidation,
18 coercion, or any reason based on discrimination of any
19 kind.

20 “(B) CRUEL OR INHUMAN TREATMENT.—The act of
21 a person who commits, or conspires or attempts to
22 commit, an act intended to inflict severe or serious
23 physical or mental pain or suffering (other than pain
24 or suffering incidental to lawful sanctions), including
25 serious physical abuse, upon another within his custody
26 or control.

27 “(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The
28 act of a person who subjects, or conspires or attempts
29 to subject, one or more persons within his custody or
30 physical control to biological experiments without a le-
31 gitimate medical or dental purpose and in so doing en-
32 dangers the body or health of such person or persons.

33 “(D) MURDER.—The act of a person who inten-
34 tionally kills, or conspires or attempts to kill, or kills
35 whether intentionally or unintentionally in the course of
36 committing any other offense under this subsection,
37 one or more persons taking no active part in the hos-

1 tilities, including those placed out of combat by sick-
2 ness, wounds, detention, or any other cause.

3 “(E) MUTILATION OR MAIMING.—The act of a per-
4 son who intentionally injures, or conspires or attempts
5 to injure, or injures whether intentionally or uninten-
6 tionally in the course of committing any other offense
7 under this subsection, one or more persons taking no
8 active part in the hostilities, including those placed out
9 of combat by sickness, wounds, detention, or any other
10 cause, by disfiguring the person or persons by any mu-
11 tilation thereof or by permanently disabling any mem-
12 ber, limb, or organ of his body, without any legitimate
13 medical or dental purpose.

14 “(F) INTENTIONALLY CAUSING SERIOUS BODILY IN-
15 JURY.—The act of a person who intentionally causes,
16 or conspires or attempts to cause, serious bodily injury
17 to one or more persons, including lawful combatants, in
18 violation of the law of war.

19 “(G) RAPE.—The act of a person who forcibly or
20 with coercion or threat of force wrongfully invades, or
21 conspires or attempts to invade, the body of a person
22 by penetrating, however slightly, the anal or genital
23 opening of the victim with any part of the body of the
24 accused, or with any foreign object.

25 “(H) SEXUAL ASSAULT OR ABUSE.—The act of a
26 person who forcibly or with coercion or threat of force
27 engages, or conspires or attempts to engage, in sexual
28 contact with one or more persons, or causes, or con-
29 spires or attempts to cause, one or more persons to en-
30 gage in sexual contact.

31 “(I) TAKING HOSTAGES.—The act of a person who,
32 having knowingly seized or detained one or more per-
33 sons, threatens to kill, injure, or continue to detain
34 such person or persons with the intent of compelling
35 any nation, person other than the hostage, or group of
36 persons to act or refrain from acting as an explicit or

1 implicit condition for the safety or release of such per-
2 son or persons.

3 “(2) DEFINITIONS.—In the case of an offense under sub-
4 section (a) by reason of subsection (c)(3)—

5 “(A) the term ‘severe mental pain or suffering’ shall
6 be applied for purposes of paragraphs (1)(A) and
7 (1)(B) in accordance with the meaning given that term
8 in section 2340(2) of this title;

9 “(B) the term ‘serious bodily injury’ shall be applied
10 for purposes of paragraph (1)(F) in accordance with
11 the meaning given that term in section 113(b)(2) of
12 this title;

13 “(C) the term ‘sexual contact’ shall be applied for
14 purposes of paragraph (1)(G) in accordance with the
15 meaning given that term in section 2246(3) of this
16 title;

17 “(D) the term ‘serious physical pain or suffering’
18 shall be applied for purposes of paragraph (1)(B) as
19 meaning bodily injury that involves—

20 “(i) a substantial risk of death;

21 “(ii) extreme physical pain;

22 “(iii) a burn or physical disfigurement of a seri-
23 ous nature (other than cuts, abrasions, or bruises);
24 or

25 “(iv) significant loss or impairment of the func-
26 tion of a bodily member, organ, or mental faculty;
27 and

28 “(E) the term ‘serious mental pain or suffering’ shall
29 be applied for purposes of paragraph (1)(B) in accord-
30 ance with the meaning given the term ‘severe mental
31 pain or suffering’ (as defined in section 2340(2) of this
32 title), except that—

33 “(i) the term ‘serious’ shall replace the term ‘se-
34 vere’ where it appears; and

35 “(ii) as to conduct occurring after the date of the
36 enactment of the Military Commissions Act of
37 2006, the term ‘serious and non-transitory mental

1 harm (which need not be prolonged)' shall replace
2 the term 'prolonged mental harm' where it appears.

3 “(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH
4 RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAW-
5 FUL ATTACK.—The intent specified for the conduct stated
6 in subparagraphs (D), (E), and (F) or paragraph (1) pre-
7 cludes the applicability of those subparagraphs to an of-
8 fense under subsection (a) by reasons of subsection (c)(3)
9 with respect to—

10 “(A) collateral damage; or

11 “(B) death, damage, or injury incident to a lawful
12 attack.

13 “(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRIS-
14 ONER EXCHANGE.—Paragraph (1)(I) does not apply to an
15 offense under subsection (a) by reason of subsection (c)(3)
16 in the case of a prisoner exchange during wartime.

17 “(5) DEFINITION OF GRAVE BREACHES.—The definitions
18 in this subsection are intended only to define the grave
19 breaches of common Article 3 and not the full scope of
20 United States obligations under that Article.

21 **“CHAPTER 33—TRANSPORTATION RELATED**
22 **CRIMES**

| “Subchapter | Sec. |
|--|-------------|
| “A. Aircraft and motor vehicles | 1301 |
| “B. Roalroads | 1331 |
| “C. Seamen and stowaways | 1341 |
| “D. Shipping | 1351 |

23 **“SUBCHAPTER A—AIRCRAFT AND MOTOR VEHICLES**

“Sec.

“1301. Destruction of aircraft or aircraft facilities.

“1302. Destruction of motor vehicles or motor vehicle facilities.

“1303. Penalty when death results.

“1304. Imparting or conveying false information.

“1305. Violence at international airports.

“1306. Fraud involving aircraft or space vehicle parts in interstate or for-
 eign commerce.

“1307. Aircraft piracy.

“1308. Interference with flight crew members and attendants.

“1309. Carrying a weapon or explosive on an aircraft.

“1310. Application of certain criminal laws to acts on aircraft.

“1311. Definitions.

1 **“§ 1301. Destruction of aircraft or aircraft facili-**
2 **ties**

3 “(a) IN GENERAL.—Whoever knowingly without authority—

4 “(1) sets fire to, damages, destroys, disables, or wrecks
5 any aircraft in the special aircraft jurisdiction of the
6 United States or any civil aircraft used, operated, or em-
7 ployed in interstate, overseas, or foreign air commerce;

8 “(2) places or causes to be placed a destructive device or
9 substance in, upon, or in proximity to, or otherwise makes
10 or causes to be made unworkable or unusable or hazardous
11 to work or use, any such aircraft, or any part or other ma-
12 terials used or intended to be used in connection with the
13 operation of such aircraft, if such placing or causing to be
14 placed or such making or causing to be made is likely to
15 endanger the safety of any such aircraft;

16 “(3) sets fire to, damages, destroys, or disables any air
17 navigation facility, or interferes by force or violence with
18 the operation of such facility, if such fire, damaging, de-
19 stroying, disabling, or interfering is likely to endanger the
20 safety of any such aircraft in flight;

21 “(4) with the intent to damage, destroy, or disable any
22 such aircraft, sets fire to, damages, destroys, or disables or
23 places a destructive device or substance in, upon, or in
24 proximity to, any appliance or structure, ramp, landing
25 area, property, machine, or apparatus, or any facility or
26 other material used, or intended to be used, in connection
27 with the operation, maintenance, loading, unloading or
28 storage of any such aircraft or any cargo carried or in-
29 tended to be carried on any such aircraft;

30 “(5) interferes with or disables, with intent to endanger
31 the safety of any person or with a reckless disregard for
32 the safety of human life, anyone engaged in the authorized
33 operation of such aircraft or any air navigation facility aid-
34 ing in the navigation of any such aircraft;

35 “(6) performs an act of violence against or incapacitates
36 any individual on any such aircraft, if such act of violence

1 or incapacitation is likely to endanger the safety of such
2 aircraft; or

3 “(7) communicates information, knowing the information
4 to be false and under circumstances in which such informa-
5 tion may reasonably be believed, thereby endangering the
6 safety of any such aircraft in flight,

7 shall be imprisoned not more than 20 years.

8 “(b) OTHER CIVIL AIRCRAFT.—Whoever knowingly—

9 “(1) performs an act of violence against any individual
10 on board any civil aircraft registered in a country other
11 than the United States while such aircraft is in flight, if
12 such act is likely to endanger the safety of that aircraft;

13 “(2) destroys a civil aircraft registered in a country other
14 than the United States while such aircraft is in service or
15 causes damage to such an aircraft which renders that air-
16 craft incapable of flight or which is likely to endanger that
17 aircraft’s safety in flight; or

18 “(3) places or causes to be placed on a civil aircraft reg-
19 istered in a country other than the United States while
20 such aircraft is in service, a device or substance which is
21 likely to destroy that aircraft, or to cause damage to that
22 aircraft which renders that aircraft incapable of flight or
23 which is likely to endanger that aircraft’s safety in flight.

24 shall be imprisoned not more than 20 years. There is also
25 extraterritorial jurisdiction over an offense under this sub-
26 section if a national of the United States was on board, or
27 would have been on board, the aircraft; an offender is a na-
28 tional of the United States; or an offender is afterwards found
29 in the United States.

30 “(c) THREATS.—Whoever knowingly imparts or conveys any
31 threat to do an act which would violate any of paragraphs (1)
32 through (5) of subsection (a) or any of paragraphs (1) through
33 (3) of subsection (b) of this section, with an apparent deter-
34 mination and will to carry the threat into execution shall be im-
35 prisoned not more than five years.

1 **“§ 1302. Destruction of motor vehicles or motor**
2 **vehicle facilities**

3 “(a) OFFENSE.—Whoever—

4 “(1) knowingly, with intent to endanger the safety of any
5 person on board or anyone who he believes will board the
6 same, or with a reckless disregard for the safety of human
7 life, damages, disables, destroys, tampers with, or places or
8 causes to be placed any explosive or other destructive sub-
9 stance in, upon, or in proximity to, any motor vehicle which
10 is used, operated, or employed in interstate or foreign com-
11 merce, or its cargo or material used or intended to be used
12 in connection with its operation;

13 “(2) knowingly, with like intent, damages, disables, de-
14 stroys;

15 “(3) sets fire to, tampers with, or places or causes to be
16 placed any explosive or other destructive substance in,
17 upon, or in proximity to any garage, terminal, structure,
18 supply, or facility used in the operation of, or in support
19 of the operation of, motor vehicles engaged in interstate or
20 foreign commerce or otherwise makes or causes such prop-
21 erty to be made unworkable, unusable, or hazardous to
22 work or use; or

23 “(4) with like intent, knowingly disables or incapacitates
24 any driver or person employed in connection with the oper-
25 ation or maintenance of the motor vehicle, or in any way
26 lessens the ability of such person to perform his duties as
27 such.

28 shall be imprisoned not more than 20 years.

29 “(b) INCREASED PENALTY.—Whoever is convicted of a viola-
30 tion of subsection (a) involving a motor vehicle that, at the
31 time the violation occurred, carried high-level radioactive waste
32 (as that term is defined in section 2(12) of the Nuclear Waste
33 Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear
34 fuel (as that term is defined in section 2(23) of the Nuclear
35 Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be im-
36 prisoned for any term of years not less than 30, or for life.

1 **“§ 1303. Penalty when death results**

2 “Whoever is convicted of any crime prohibited by this sub-
3 chapter, which has resulted in the death of any person, shall
4 be subject also to the death penalty or to imprisonment for life.

5 **“§ 1304. Imparting or conveying false information**

6 “(a) CIVIL PENALTY.—Whoever imparts or conveys or
7 causes to be imparted or conveyed false information, knowing
8 the information to be false, concerning an attempt or alleged
9 attempt being made or to be made, to do any act which would
10 be a crime prohibited by this subchapter or subchapter B or
11 D of this chapter shall be subject to a civil penalty of not more
12 than \$1,000 which shall be recoverable in a civil action brought
13 in the name of the United States.

14 “(b) CRIMINAL OFFENSE.—Whoever knowingly, or with
15 reckless disregard for the safety of human life, imparts or con-
16 veys or causes to be imparted or conveyed false information,
17 knowing the information to be false, concerning an attempt or
18 alleged attempt being made or to be made, to do any act which
19 would be a crime prohibited by this subchapter or subchapter
20 B or D of this chapter shall be imprisoned not more than five
21 years.

22 **“§ 1305. Violence at international airports**

23 “(a) OFFENSE.—Whoever unlawfully and knowingly, using
24 any device, substance, or weapon—

25 “(1) performs an act of violence against a person at an
26 airport serving international civil aviation that causes or is
27 likely to cause serious bodily injury or death; or

28 “(2) destroys or seriously damages the facilities of an
29 airport serving international civil aviation or a civil aircraft
30 not in service located thereon or disrupts the services of the
31 airport,

32 shall be imprisoned not more than 20 years.

33 “(b) JURISDICTION.—There is jurisdiction over the prohib-
34 ited activity in subsection (a) if—

35 “(1) the prohibited activity takes place in the United
36 States; or

1 “(2) the prohibited activity takes place outside the
2 United States and (A)the offender is later found in the
3 United States; or (B) an offender or a victim is a national
4 of the United States.

5 “(c) BAR TO PROSECUTION.—It is a bar to Federal prosecu-
6 tion under subsection (a) for conduct that occurred within the
7 United States that the conduct involved was during or in rela-
8 tion to a labor dispute, and such conduct is prohibited as a fel-
9 ony under the law of the State in which it was committed.

10 “(d) DEFINITION.—As used in this section, the term ‘labor
11 dispute’ has the meaning set forth in section 13(c) of the Nor-
12 ris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

13 **“§ 1306. Fraud involving aircraft or space vehicle**
14 **parts in interstate or foreign commerce**

15 “(a) OFFENSES.—Whoever, in or affecting interstate or for-
16 eign commerce, knowingly and with the intent to defraud—

17 “(1)(A) falsifies or conceals a material fact concerning
18 any aircraft or space vehicle part;

19 “(B) makes any materially fraudulent representation
20 concerning any aircraft or space vehicle part; or

21 “(C) makes or uses any materially false writing, entry,
22 certification, document, record, data plate, label, or elec-
23 tronic communication concerning any aircraft or space ve-
24 hicle part; or

25 “(2) exports from or imports or introduces into the
26 United States, sells, trades, installs on or in any aircraft
27 or space vehicle any aircraft or space vehicle part using or
28 by means of a fraudulent representation, document, record,
29 certification, depiction, data plate, label, or electronic com-
30 munication;

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

32 “(b) PENALTIES.—The punishment for an offense under
33 subsection (a) is as follows:

34 “(1) AVIATION QUALITY.—If the offense relates to the
35 aviation quality of a part and the part is installed in an
36 aircraft or space vehicle, a fine of not more than \$500,000,
37 imprisonment for not more than 15 years, or both.

1 “(2) FAILURE TO OPERATE AS REPRESENTED.—If, by
2 reason of the failure of the part to operate as represented,
3 the part to which the offense is related is the proximate
4 cause of a malfunction or failure that results in serious
5 bodily injury, a fine of not more than \$1,000,000, impris-
6 onment for not more than 20 years, or both.

7 “(3) FAILURE RESULTING IN DEATH.—If, by reason of
8 the failure of the part to operate as represented, the part
9 to which the offense is related is the proximate cause of a
10 malfunction or failure that results in the death of any per-
11 son, a fine of not more than \$1,000,000, imprisonment for
12 any term of years or life, or both.

13 “(4) OTHER CIRCUMSTANCES.—In the case of an offense
14 under subsection (a) not described in paragraph (1), (2),
15 or (3) of this subsection, a fine under this title, impris-
16 onment for not more than 10 years, or both.

17 “(5) ORGANIZATIONS.—If the offense is committed by an
18 organization, a fine of not more than—

19 “(A) \$10,000,000 in the case of an offense described
20 in paragraph (1) or (4); and

21 “(B) \$20,000,000 in the case of an offense described
22 in paragraph (2) or (3).

23 “(c) CIVIL REMEDIES.—

24 “(1) IN GENERAL.—The district courts of the United
25 States shall have jurisdiction to prevent and restrain viola-
26 tions of this section by issuing appropriate orders, includ-
27 ing—

28 “(A) ordering a person (convicted of an offense
29 under this section) to divest any interest, direct or indi-
30 rect, in any enterprise used to commit or facilitate the
31 commission of the offense, or to destroy, or to mutilate
32 and sell as scrap, aircraft material or part inventories
33 or stocks;

34 “(B) imposing reasonable restrictions on the future
35 activities or investments of any such person, including
36 prohibiting engagement in the same type of endeavor
37 as used to commit the offense; and

1 “(C) ordering the dissolution or reorganization of
2 any enterprise knowingly used to commit or facilitate
3 the commission of an offense under this section making
4 due provisions for the rights and interests of innocent
5 persons.

6 “(2) RESTRAINING ORDERS AND PROHIBITION.—Pending
7 final determination of a proceeding brought under this sec-
8 tion, the court may enter such restraining orders or prohi-
9 bitions, or take such other actions (including the accept-
10 ance of satisfactory performance bonds) as the court deems
11 proper.

12 “(3) ESTOPPEL.—A final judgment rendered in favor of
13 the United States in any criminal proceeding brought
14 under this section shall stop the defendant from denying
15 the essential allegations of the criminal offense in any sub-
16 sequent civil proceeding brought by the United States.

17 “(e) TERRITORIAL SCOPE.—This section also applies to con-
18 duct occurring outside the United States if—

19 “(1) the offender is a natural person who is a citizen or
20 permanent resident alien of the United States, or an orga-
21 nization organized under the laws of the United States or
22 political subdivision thereof;

23 “(2) the aircraft or spacecraft part as to which the viola-
24 tion relates was installed in an aircraft or space vehicle
25 owned or operated at the time of the offense by a citizen
26 or permanent resident alien of the United States, or by an
27 organization thereof; or

28 “(3) an act in furtherance of the offense was committed
29 in the United States.

30 **“§ 1307. Aircraft piracy**

31 “(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) For the
32 purposes of this subsection—

33 “(A) the term ‘aircraft piracy’ means seizing or exer-
34 cising control of an aircraft in the special aircraft jurisdic-
35 tion of the United States by force, violence, threat of force
36 or violence, or any form of intimidation, and with wrongful
37 intent; and

1 “(B) an attempt to commit aircraft piracy is in the spe-
 2 cial aircraft jurisdiction of the United States although the
 3 aircraft is not in flight at the time of the attempt if the
 4 aircraft would have been in the special aircraft jurisdiction
 5 of the United States had the aircraft piracy been com-
 6 pleted.

7 “(2) Whoever commits aircraft piracy shall be imprisoned for
 8 not less than 20 years.

9 “(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) Who-
 10 ever commits an offense (as defined in the Convention for the
 11 Suppression of Unlawful Seizure of Aircraft) on an aircraft in
 12 flight outside the special aircraft jurisdiction of the United
 13 States shall be imprisoned for at least 20 years.

14 “(2) There is extraterritorial jurisdiction over the offense in
 15 paragraph (1) if—

16 “(A) a national of the United States was aboard the air-
 17 craft;

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

19 “(C) an offender is afterwards found in the United
 20 States.

21 **“§ 1308. Interference with flight crew members**
 22 **and attendants**

23 “An individual on an aircraft in the special aircraft jurisdic-
 24 tion of the United States who, by assaulting or intimidating a
 25 flight crew member or flight attendant of the aircraft, inter-
 26 feres with the performance of the duties of the member or at-
 27 tendant or lessens the ability of the member or attendant to
 28 perform those duties, shall be imprisoned for not more than 20
 29 years. However, if a dangerous weapon is used in assaulting or
 30 intimidating the member or attendant, the individual shall be
 31 imprisoned for any term of years or for life.

32 **“§ 1309. Carrying a weapon or explosive on an air-**
 33 **craft**

34 “(a) DEFINITION.—In this section, ‘loaded firearm’ means a
 35 starter gun or a weapon designed or converted to expel a pro-
 36 jectile through an explosive, that has a cartridge, a detonator,
 37 or powder in the chamber, magazine, cylinder, or clip.

1 “(b) GENERAL CRIMINAL PENALTY.—An individual shall be
2 imprisoned for not more than 10 years if the individual—

3 “(1) when on, or attempting to get on, an aircraft in, or
4 intended for operation in, air transportation or intrastate
5 air transportation, has on or about the individual or the
6 property of the individual a concealed dangerous weapon
7 that is or would be accessible to the individual in flight;

8 “(2) has placed, attempted to place, or attempted to
9 have placed a loaded firearm on that aircraft in property
10 not accessible to passengers in flight; or

11 “(3) has on or about the individual, or has placed, at-
12 tempted to place, or attempted to have placed on that air-
13 craft, an explosive or incendiary device.

14 “(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR
15 HUMAN LIFE.—An individual who willfully and without regard
16 for the safety of human life, or with reckless disregard for the
17 safety of human life, violates subsection (b) of this section,
18 shall be imprisoned for not more than 20 years, and, if death
19 results to any person, shall be imprisoned for any term of years
20 or for life.

21 “(d) NONAPPLICATION.—Subsection (b)(1) of this section
22 does not apply to—

23 “(1) a law enforcement officer of a State or political sub-
24 division of a State, or an officer or employee of the United
25 States Government, authorized to carry arms in an official
26 capacity;

27 “(2) another individual the Administrator of the Federal
28 Aviation Administration or the Under Secretary of Trans-
29 portation for Security by regulation authorizes to carry a
30 dangerous weapon in air transportation or intrastate air
31 transportation; or

32 “(3) an individual transporting a weapon (except a load-
33 ed firearm) in baggage not accessible to a passenger in
34 flight if the air carrier was informed of the presence of the
35 weapon.

1 **“§ 1310. Application of certain criminal laws to**
2 **acts on aircraft**

3 “An individual on an aircraft in the special aircraft jurisdic-
4 tion of the United States who commits an act that—

5 “(1) if committed in the special maritime and territorial
6 jurisdiction of the United States (as defined in section 7
7 of title 18) would violate section 102, 111, 141, 650, 651,
8 or subchapter A of chapter 13, shall be imprisoned under
9 that section or chapter; or

10 “(2) if committed in the District of Columbia would vio-
11 late section 9 of the Act of July 29, 1892 (D.C. Code Sec.
12 22–1112), shall be imprisoned under section 9 of the Act.

13 **“§ 1311. Definitions**

14 “(a) DEFINITIONS.—As used in sections 1301 through 1307,
15 the following definitions apply:

16 “(1) AIRCRAFT.—The term ‘aircraft’ means a civil, mili-
17 tary, or public contrivance invented, used, or designed to
18 navigate, fly, or travel in the air.

19 “(2) AVIATION QUALITY.—The term ‘aviation quality’,
20 with respect to a part of an aircraft or space vehicle, means
21 the quality of having been manufactured, constructed, pro-
22 duced, maintained, repaired, overhauled, rebuilt, recondi-
23 tioned, or restored in conformity with applicable standards
24 specified by law (including applicable regulations).

25 “(3) DESTRUCTIVE SUBSTANCE.—The term ‘destructive
26 substance’ means an explosive substance, flammable mate-
27 rial, infernal machine, or other chemical, mechanical, or ra-
28 dioactive device or matter of a combustible, contaminative,
29 corrosive, or explosive nature.

30 “(4) IN FLIGHT.—The term ‘in flight’ means—

31 “(A) any time from the moment at which all the ex-
32 ternal doors of an aircraft are closed following embar-
33 kation until the moment when any such door is opened
34 for disembarkation; and

35 “(B) in the case of a forced landing, until competent
36 authorities take over the responsibility for the aircraft
37 and the persons and property on board.

1 “(5) IN SERVICE.—The term ‘in service’ means—

2 “(A) any time from the beginning of preflight prepa-
3 ration of an aircraft by ground personnel or by the
4 crew for a specific flight until 24 hours after any land-
5 ing; and

6 “(B) in any event includes the entire period during
7 which the aircraft is in flight.

8 “(6) MOTOR VEHICLE.—The term ‘motor vehicle’ means
9 every description of carriage or other contrivance propelled
10 or drawn by mechanical power and used for commercial
11 purposes on the highways in the transportation of pas-
12 sengers, passengers and property, or property or cargo.

13 “(7) PART.—The term ‘part’ means a frame, assembly,
14 component, appliance, engine, propeller, material, part,
15 spare part, piece, section, or related integral or auxiliary
16 equipment.

17 “(8) SPACE VEHICLE.—The term ‘space vehicle’ means
18 a man-made device, either manned or unmanned, designed
19 for operation beyond the Earth’s atmosphere.

20 “(9) STATE.—The term ‘State’ means a State of the
21 United States, the District of Columbia, and any common-
22 wealth, territory, or possession of the United States.

23 “(10) USED FOR COMMERCIAL PURPOSES.—The term
24 ‘used for commercial purposes’ means the carriage of per-
25 sons or property for any fare, fee, rate, charge or other
26 consideration, or directly or indirectly in connection with
27 any business, or other undertaking intended for profit.

28 “(b) TERMS DEFINED IN OTHER LAW.—In this subchapter,
29 the terms ‘aircraft engine’, ‘air navigation facility’, ‘appliance’,
30 ‘civil aircraft’, ‘foreign air commerce’, ‘interstate air com-
31 merce’, ‘landing area’, ‘overseas air commerce’, ‘propeller’,
32 ‘spare part’, and ‘special aircraft jurisdiction of the United
33 States’ have the meanings given those terms in sections
34 40102(a) and 46501 of title 49.

“SUBCHAPTER B—RAILROADS

1 “Sec.

“1331. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.

2 **“§ 1331. Terrorist attacks and other violence**
3 **against railroad carriers and against mass**
4 **transportation systems on land, on water,**
5 **or through the air**

6 “(a) GENERAL PROHIBITIONS.—Whoever, as made applica-
7 ble by subsection (c), knowingly and without lawful authority—

8 “(1) wrecks, derails, sets fire to, or disables railroad on-
9 track equipment or a mass transportation vehicle;

10 “(2) places any biological agent or toxin, destructive sub-
11 stance, or destructive device in, upon, or near railroad on-
12 track equipment or a mass transportation vehicle with in-
13 tent to endanger the safety of any person, or with a reck-
14 less disregard for the safety of human life;

15 “(3) places or releases a hazardous material or a biologi-
16 cal agent or toxin on or near any property described in sub-
17 paragraph (A) or (B) of paragraph (4), with intent to en-
18 danger the safety of any person, or with reckless disregard
19 for the safety of human life;

20 “(4) sets fire to, undermines, makes unworkable, unus-
21 able, or hazardous to work on or use, or places any biologi-
22 cal agent or toxin, destructive substance, or destructive de-
23 vice in, upon, or near any—

24 “(A) tunnel, bridge, viaduct, trestle, track, electro-
25 magnetic guideway, signal, station, depot, warehouse,
26 terminal, or any other way, structure, property, or ap-
27 purtenance used in the operation of, or in support of
28 the operation of, a railroad carrier, and with intent to,
29 or knowing or having reason to know, such activity
30 would likely, derail, disable, or wreck railroad on-track
31 equipment; or

32 “(B) garage, terminal, structure, track, electro-
33 magnetic guideway, supply, or facility used in the oper-
34 ation of, or in support of the operation of, a mass

1 transportation vehicle, and with intent to, or knowing
2 or having reason to know, such activity would likely,
3 derail, disable, or wreck a mass transportation vehicle
4 used, operated, or employed by a mass transportation
5 provider;

6 “(5) removes an appurtenance from, damages, or other-
7 wise impairs the operation of a railroad signal system or
8 mass transportation signal or dispatching system, including
9 a train control system, centralized dispatching system, or
10 highway-railroad grade crossing warning signal;

11 “(6) with intent to endanger the safety of any person,
12 or with a reckless disregard for the safety of human life,
13 interferes with, disables, or incapacitates any dispatcher,
14 driver, captain, locomotive engineer, railroad conductor, or
15 other person while the person is employed in dispatching,
16 operating, controlling, or maintaining railroad on-track
17 equipment or a mass transportation vehicle;

18 “(7) commits an act, including the use of a dangerous
19 weapon, with the intent to cause death or serious bodily in-
20 jury to any person who is on property described in subpara-
21 graph (A) or (B) of paragraph (4);

22 “(8) surveils, photographs, videotapes, diagrams, or oth-
23 erwise collects information with the intent to plan or assist
24 in planning any of the acts described in paragraphs (1)
25 through (6);

26 “(9) conveys false information, knowing the information
27 to be false, concerning an attempt or alleged attempt to en-
28 gage in a violation of this subsection; or

29 “(10) threatens to engage in any violation of any of
30 paragraphs (1) through (9);

31 shall be imprisoned not more than 20 years, and if the offense
32 results in the death of any person, shall be imprisoned for any
33 term of years or for life, or be subject to the penalty of death,
34 except in the case of a violation of paragraph (8), (9), or (10).

35 “(b) AGGRAVATED OFFENSE.—Whoever commits an offense
36 under subsection (a) of this section in a circumstance in
37 which—

1 “(1) the railroad on-track equipment or mass transpor-
2 tation vehicle was carrying a passenger or employee at the
3 time of the offense;

4 “(2) the railroad on-track equipment or mass transpor-
5 tation vehicle was carrying high-level radioactive waste or
6 spent nuclear fuel at the time of the offense; or

7 “(3) the offense was committed with the intent to endan-
8 ger the safety of any person, or with a reckless disregard
9 for the safety of any person, and the railroad on-track
10 equipment or mass transportation vehicle was carrying a
11 hazardous material at the time of the offense that—

12 “(A) was required to be placarded under subpart F
13 of part 172 of title 49, Code of Federal Regulations;
14 and

15 “(B) is identified as class number 3, 4, 5, 6.1, or 8
16 and packing group I or packing group II, or class num-
17 ber 1, 2, or 7 under the hazardous materials table of
18 section 172.101 of title 49, Code of Federal Regula-
19 tions,

20 shall be imprisoned for any term of years or life, and if the of-
21 fense resulted in the death of any person, the person may be
22 sentenced to death.

23 “(c) APPLICABILITY.—Subsection (a) applies if any of the
24 following are true:

25 “(1) Any of the conduct required for the offense is, or,
26 in the case of an attempt, threat, or conspiracy to engage
27 in conduct, the conduct required for the completed offense
28 would be, engaged in, on, against, or affecting a mass
29 transportation provider, or a railroad carrier engaged in
30 interstate or foreign commerce.

31 “(2) Any person travels or communicates across a State
32 line in order to commit the offense, or transports materials
33 across a State line in aid of the commission of the offense.

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

35 “(1) the term ‘biological agent’ has the meaning given to
36 that term in section 178(1);

1 “(2) the term ‘dangerous weapon’ means a weapon, de-
2 vice, instrument, material, or substance, animate or inani-
3 mate, that is used for, or is readily capable of, causing
4 death or serious bodily injury, including a pocket knife with
5 a blade of less than 2½ inches in length and a box cutter;

6 “(3) the term ‘destructive device’ has the meaning given
7 to that term in section 921(a)(4);

8 “(4) the term ‘destructive substance’ means an explosive
9 substance, flammable material, infernal machine, or other
10 chemical, mechanical, or radioactive device or material, or
11 matter of a combustible, contaminative, corrosive, or explo-
12 sive nature, except that the term ‘radioactive device’ does
13 not include any radioactive device or material used solely
14 for medical, industrial, research, or other peaceful pur-
15 poses;

16 “(5) the term ‘hazardous material’ has the meaning
17 given to that term in chapter 51 of title 49;

18 “(6) the term ‘high-level radioactive waste’ has the
19 meaning given to that term in section 2(12) of the Nuclear
20 Waste Policy Act of 1982 (42 U.S.C. 10101(12));

21 “(7) the term ‘mass transportation’ has the meaning
22 given to that term in section 5302(a)(7) of title 49, except
23 that the term includes school bus, charter, and sightseeing
24 transportation and passenger vessel as that term is defined
25 in section 2101(22) of title 46, United States Code;

26 “(8) the term ‘on-track equipment’ means a carriage or
27 other contrivance that runs on rails or electromagnetic
28 guideways;

29 “(9) the term ‘railroad on-track equipment’ means a
30 train, locomotive, tender, motor unit, freight or passenger
31 car, or other on-track equipment used, operated, or em-
32 ployed by a railroad carrier;

33 “(10) the term ‘railroad’ has the meaning given to that
34 term in chapter 201 of title 49;

35 “(11) the term ‘railroad carrier’ has the meaning given
36 to that term in chapter 201 of title 49;

1 “(12) the term ‘serious bodily injury’ has the meaning
2 given to that term in section 1365;

3 “(13) the term ‘spent nuclear fuel’ has the meaning
4 given to that term in section 2(23) of the Nuclear Waste
5 Policy Act of 1982 (42 U.S.C. 10101(23));

6 “(14) the term ‘toxin’ has the meaning given to that
7 term in section 178(2); and

8 “(15) the term ‘vehicle’ means any carriage or other con-
9 trivance used, or capable of being used, as a means of
10 transportation on land, on water, or through the air.

11 “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.

12 **“§ 1341. Drunkenness or neglect of duty by sea-**
13 **men**

14 “Whoever, being a master, officer, radio operator, seaman,
15 apprentice or other person employed on any merchant vessel,
16 by willful breach of duty, or by reason of drunkenness, does
17 any act tending to the immediate loss or destruction of, or seri-
18 ous damage to, such vessel, or tending immediately to endanger
19 the life or limb of any person belonging to or on board of such
20 vessel; or, by knowing breach of duty or by neglect of duty or
21 by reason of drunkenness, refuses or omits to do any lawful act
22 proper and requisite to be done by him for preserving such ves-
23 sel from immediate loss, destruction, or serious damage, or for
24 preserving any person belonging to or on board of such ship
25 from immediate danger to life or limb, shall be imprisoned not
26 more than one year.

27 **“§ 1342. Misuse of Federal certificate, license, or**
28 **document**

29 “Whoever—

30 “(1) not being lawfully entitled thereto, uses, exhibits, or
31 attempts to use or exhibit, or, with intent unlawfully to use
32 the same, receives or possesses any certificate, license, or
33 document issued to vessels, or officers or seamen by any of-

1 ficer or employee of the United States authorized by law
2 to issue the same;

3 “(2) without authority, alters or attempts to alter any
4 such certificate, license, or document by addition, interpola-
5 tion, deletion, or erasure;

6 “(3) forges, counterfeits, or steals, or attempts to forge,
7 counterfeit, or steal, any such certificate, license, or docu-
8 ment; or unlawfully possesses or knowingly uses any such
9 altered, changed, forged, counterfeit, or stolen certificate,
10 license, or document;

11 “(4) without authority, prints or manufactures any blank
12 form of such certificate, license, or document, or Whoever
13 possesses without lawful excuse, and with intent unlawfully
14 to use the same, any blank form of such certificate, license,
15 or document; or

16 “(5) in any manner, transfers or negotiates such transfer
17 of, any blank form of such certificate, license, or document,
18 or any such altered, forged, counterfeit, or stolen certifi-
19 cate, license, or document, or any such certificate, license,
20 or document to which the party transferring or receiving
21 the same is not lawfully entitled;

22 shall be imprisoned not more than five years.

23 **“§ 1343. Stowaways on vessels or aircraft**

24 “(a) OFFENSE.—Whoever—

25 “(1) without the consent of the owner, charterer, master,
26 or person in command of any vessel, or aircraft, with intent
27 to obtain transportation, boards, enters or secretes himself
28 aboard such vessel or aircraft and is thereon at the time
29 of departure of said vessel or aircraft from a port, harbor,
30 wharf, airport or other place within the jurisdiction of the
31 United States;

32 “(2) with like intent, having boarded, entered or secreted
33 himself aboard a vessel or aircraft at any place within or
34 without the jurisdiction of the United States, remains
35 aboard after the vessel or aircraft has left such place and
36 is thereon at any place within the jurisdiction of the United
37 States; or

1 “(3) with intent to obtain a ride or transportation,
2 boards or enters any aircraft owned or operated by the
3 United States without the consent of the person in com-
4 mand or other duly authorized officer or agent;

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

6 “(b) PUNISHMENT.—The punishment for an offense under
7 subsection (a) is imprisonment for not more than 5 years,
8 but—

9 “(1) if the person commits an offense under this section,
10 with the intent to commit serious bodily injury, and serious
11 bodily injury occurs to any person other than a participant
12 as a result of the offense shall be imprisoned not more than
13 20 years; and

14 “(2) if an individual commits an offense under this sec-
15 tion, with the intent to cause death, and if the death of any
16 person other than a participant occurs as a result of the
17 offense shall be imprisoned for any number of years or for
18 life.

19 “(c) DEFINITION.—As used in this section the term ‘aircraft’
20 includes any contrivance for navigation or flight in the air.

21 “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 commerce.

“1347. Violence against aids to maritime navigation.

“1348. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

“1349. Transportation of terrorists.

22 **“§ 1345. Violence against maritime navigation**

23 “(a) OFFENSES.—

24 “(1) IN GENERAL.—A person who unlawfully and inten-
25 tionally—

26 “(A) seizes or exercises control over a ship by force
27 or threat thereof or any other form of intimidation;

28 “(B) performs an act of violence against a person on
29 board a ship if that act is likely to endanger the safe
30 navigation of that ship;

1 “(C) destroys a ship or causes damage to a ship or
2 to its cargo which is likely to endanger the safe naviga-
3 tion of that ship;

4 “(D) places or causes to be placed on a ship, by any
5 means whatsoever, a device or substance which is likely
6 to destroy that ship, or cause damage to that ship or
7 its cargo which endangers or is likely to endanger the
8 safe navigation of that ship;

9 “(E) destroys or seriously damages maritime naviga-
10 tional facilities or seriously interferes with their oper-
11 ation, if such act is likely to endanger the safe naviga-
12 tion of a ship;

13 “(F) communicates information, knowing the infor-
14 mation to be false and under circumstances in which
15 such information may reasonably be believed, thereby
16 endangering the safe navigation of a ship;

17 “(G) injures or kills any person in connection with
18 the commission or the attempted commission of any of
19 the offenses set forth in subparagraphs (A) through
20 (F); or

21 “(H) attempts or conspires to do any act prohibited
22 under subparagraphs (A) through (G),
23 shall be imprisoned not more than 20 years; and if the
24 death of any person results from conduct prohibited by this
25 paragraph, shall be punished by death or imprisoned for
26 any term of years or for life.

27 “(2) THREAT TO NAVIGATION.—A person who threatens
28 to do any act prohibited under paragraph (1)(B), (C) or
29 (E), with apparent determination and will to carry the
30 threat into execution, if the threatened act is likely to en-
31 danger the safe navigation of the ship in question, shall be
32 imprisoned not more than 5 years.

33 “(b) JURISDICTION.—There is jurisdiction over the activity
34 prohibited in subsection (a)—

35 “(1) in the case of a covered ship, if—

36 “(A) such activity is committed—

1 “(i) against or on board a ship flying the flag of
2 the United States at the time the prohibited activ-
3 ity is committed;

4 “(ii) in the United States; or

5 “(iii) by a national of the United States or by a
6 stateless person whose habitual residence is in the
7 United States;

8 “(B) during the commission of such activity, a na-
9 tional of the United States is seized, threatened, in-
10 jured or killed; or

11 “(C) the offender is later found in the United States
12 after such activity is committed;

13 “(2) in the case of a ship navigating or scheduled to
14 navigate solely within the territorial sea or internal waters
15 of a country other than the United States, if the offender
16 is later found in the United States after such activity is
17 committed; and

18 “(3) in the case of any vessel, if such activity is com-
19 mitted in an attempt to compel the United States to do or
20 abstain from doing any act.

21 “(c) BAR TO PROSECUTION.—It is a bar to Federal prosecu-
22 tion under subsection (a) for conduct that occurred within the
23 United States that the conduct involved was during or in rela-
24 tion to a labor dispute, and such conduct is prohibited as a fel-
25 ony under the law of the State in which it was committed. For
26 purposes of this section, the term ‘labor dispute’ has the mean-
27 ing set forth in section 13(c) of the Norris-LaGuardia Act (29
28 U.S.C. 113(c)).

29 “(d) DELIVERY OF SUSPECTED OFFENDER.—The master of
30 a covered ship flying the flag of the United States who has rea-
31 sonable grounds to believe that there is on board that ship any
32 person who has committed an offense under Article 3 of the
33 Convention for the Suppression of Unlawful Acts Against the
34 Safety of Maritime Navigation may deliver such person to the
35 authorities of a State Party to that Convention. Before deliv-
36 ering such person to the authorities of another country, the
37 master shall notify in an appropriate manner the Attorney

1 General of the United States of the alleged offense and await
 2 instructions from the Attorney General as to what action to
 3 take. When delivering the person to a country which is a State
 4 Party to the Convention, the master shall, whenever prac-
 5 ticable, and if possible before entering the territorial sea of
 6 such country, notify the authorities of such country of the mas-
 7 ter's intention to deliver such person and the reasons therefor.
 8 If the master delivers such person, the master shall furnish to
 9 the authorities of such country the evidence in the master's
 10 possession that pertains to the alleged offense.

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

12 “(1) the term ‘covered ship’ means a ship that is navi-
 13 gating or is scheduled to navigate into, through or from
 14 waters beyond the outer limit of the territorial sea of a sin-
 15 gle country or a lateral limit of that country's territorial
 16 sea with an adjacent country;

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

21 “(3) the term ‘ship’ means a vessel of any type whatso-
 22 ever not permanently attached to the sea-bed, including dy-
 23 namically supported craft, submersibles or any other float-
 24 ing craft, but does not include a warship, a ship owned or
 25 operated by a government when being used as a naval aux-
 26 iliary or for customs or police purposes, or a ship which has
 27 been withdrawn from navigation or laid up.

28 **“§ 1346. Devices or dangerous substances in wa-**
 29 **ters of the United States likely to destroy**
 30 **or damage ships or to interfere with mari-**
 31 **time commerce**

32 “(a) OFFENSE.—Whoever knowingly places in navigable wa-
 33 ters of the United States a device or dangerous substance
 34 which is likely—

35 “(1) to destroy or cause damage to a vessel or its cargo;

36 “(2) to cause interference with the safe navigation of
 37 vessels, or interference with maritime commerce (such as

1 by damaging or destroying marine terminals, facilities, or
2 any other marine structure or entity used in maritime com-
3 merce);

4 with the intent of causing such destruction or damage, inter-
5 ference with the safe navigation of vessels, or interference with
6 maritime commerce shall be imprisoned for any term of years
7 or for life.

8 “(b) SPECIAL RULE FOR OFFENSE RESULTING IN
9 DEATH.—Whoever causes the death of any person by engaging
10 in conduct prohibited under subsection (a) may be punished by
11 death.

12 “(c) RULE OF CONSTRUCTION.—Nothing in this section shall
13 be construed to apply to otherwise lawfully authorized and con-
14 ducted activities of the United States Government.

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

16 “(1) the term ‘dangerous substance’ means any solid, liq-
17 uid, or gaseous material that has the capacity to cause
18 damage to a vessel or its cargo, or cause interference with
19 the safe navigation of a vessel; and

20 “(2) the term ‘device’ means any object that, because of
21 its physical, mechanical, structural, or chemical properties,
22 has the capacity to cause damage to a vessel or its cargo,
23 or cause interference with the safe navigation of a vessel.

24 **“§ 1347. Violence against aids to maritime naviga-**
25 **tion**

26 “Whoever intentionally destroys, seriously damages, alters,
27 moves, or tampers with any aid to maritime navigation main-
28 tained by the Saint Lawrence Seaway Development Corporation
29 under the authority of section 4 of the Act of May 13, 1954
30 (33 U.S.C. 984), by the Coast Guard pursuant to section 81
31 of title 14, United States Code, or lawfully maintained under
32 authority granted by the Coast Guard pursuant to section 83
33 of title 14, United States Code, if such act endangers or is like-
34 ly to endanger the safe navigation of a ship, shall imprisoned
35 for not more than 20 years.

1 **“§ 1348. Transportation of explosive, biological,**
2 **chemical, or radioactive or nuclear mate-**
3 **rials**

4 “(a) IN GENERAL.—Whoever knowingly transports aboard
5 any vessel within the United States and on waters subject to
6 the jurisdiction of the United States or any vessel outside the
7 United States and on the high seas or having United States na-
8 tionality an explosive or incendiary device, biological agent,
9 chemical weapon, or radioactive or nuclear material, knowing
10 that any such item is intended to be used to commit an offense
11 listed in section 273(h)(3)(B), shall be fined under this title or
12 imprisoned for any term of years or for life, or both.

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

16 “(c) DEFINITIONS.—In this section:

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

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

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

25 “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term
26 ‘explosive or incendiary device’ has the meaning given the
27 term in section 232(5) and includes explosive materials, as
28 that term is defined in section 841(c) and explosive as de-
29 fined in section 844(j).

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

32 “(6) RADIOACTIVE MATERIAL.—The term ‘radioactive
33 material’ means—

34 “(A) source material and special nuclear material,
35 but does not include natural or depleted uranium;

36 “(B) nuclear by-product material;

1 “(C) material made radioactive by bombardment in
2 an accelerator; or

3 “(D) all refined isotopes of radium.

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

7 “(8) SPECIAL NUCLEAR MATERIAL.—The term ‘special
8 nuclear material’ has the meaning given that term in sec-
9 tion 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C.
10 2014(aa)).

11 **“§ 1349. Transportation of terrorists**

12 “(a) IN GENERAL.—Whoever knowingly and intentionally
13 transports any terrorist aboard any vessel within the United
14 States and on waters subject to the jurisdiction of the United
15 States or any vessel outside the United States and on the high
16 seas or having United States nationality, knowing that the
17 transported person is a terrorist, shall be fined under this title
18 or imprisoned for any term of years or for life, or both.

19 “(b) DEFINED TERM.—In this section, the term ‘terrorist’
20 means any person who intends to commit, or is avoiding appre-
21 hension after having committed, an offense listed under section
22 2332b(g)(5)(B).

23 “SUBCHAPTER E—DESTRUCTION OF, OR INTER-
24 FERENCE WITH, VESSELS OR MARITIME FACILI-
25 TIES

“Sec.

“1351. Jurisdiction and scope.

“1352. Destruction of vessel or maritime facility.

“1353. Imparting or conveying false information.

“1354. Bar to prosecution.

“1355. Bribery affecting port security.

26 **“§ 1351. Jurisdiction and scope**

27 “(a) JURISDICTION.—There is jurisdiction, including
28 extraterritorial jurisdiction, over an offense under section 1352
29 if the prohibited activity takes place—

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

32 “(2) outside United States and—

1 “(A) an offender or a victim is a national of the
2 United States (as that term is defined under section
3 101(a)(22) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(22));

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

7 “(C) the activity involves a vessel of the United
8 States (as that term is defined under section 2 of the
9 Maritime Drug Law Enforcement Act (46 U.S.C. App.
10 1903).

11 “(b) SCOPE.—Nothing in this subchapter shall apply to oth-
12 erwise lawful activities carried out by or at the direction of the
13 United States Government.

14 **“§ 1352. Destruction of vessel or maritime facility**

15 “(a) OFFENSE.—Whoever knowingly—

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

18 “(2) places or causes to be placed a destructive device,
19 as defined in section 921(a)(4), destructive substance, as
20 defined in section 581, or an explosive, as defined in sec-
21 tion 611 in, upon, or near, or otherwise makes or causes
22 to be made unworkable or unusable or hazardous to work
23 or use, any vessel, or any part or other materials used or
24 intended to be used in connection with the operation of a
25 vessel;

26 “(3) sets fire to, damages, destroys, or disables or places
27 a destructive device or substance in, upon, or near, any
28 maritime facility, including any aid to navigation, lock,
29 canal, or vessel traffic service facility or equipment;

30 “(4) interferes by force or violence with the operation of
31 any maritime facility, including any aid to navigation, lock,
32 canal, or vessel traffic service facility or equipment, if such
33 action is likely to endanger the safety of any vessel in navi-
34 gation;

35 “(5) sets fire to, damages, destroys, or disables or places
36 a destructive device or substance in, upon, or near, any ap-
37 pliance, structure, property, machine, or apparatus, or any

1 facility or other material used, or intended to be used, in
2 connection with the operation, maintenance, loading, un-
3 loading, or storage of any vessel or any passenger or cargo
4 carried or intended to be carried on any vessel;

5 “(6) performs an act of violence against or incapacitates
6 any individual on any vessel, if such act of violence or inca-
7 pacitation is likely to endanger the safety of the vessel or
8 those on board;

9 “(7) performs an act of violence against a person that
10 causes or is likely to cause serious bodily injury in, upon,
11 or near, any appliance, structure, property, machine, or ap-
12 paratus, or any facility or other material used, or intended
13 to be used, in connection with the operation, maintenance,
14 loading, unloading, or storage of any vessel or any pas-
15 senger or cargo carried or intended to be carried on any
16 vessel; or

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

21 shall be imprisoned not more than 20 years.

22 “(b) LIMITATION.—Subsection (a) does not apply to any per-
23 son that is engaging in otherwise lawful activity, such as nor-
24 mal repair and salvage activities, and the transportation of haz-
25 ardous materials regulated and allowed to be transported under
26 chapter 51 of title 49.

27 “(c) PENALTY.—Whoever is convicted under subsection (a)
28 as a result of an act involving a vessel that, at the time of the
29 violation, carried high-level radioactive waste (as that term is
30 defined in section 2(12) of the Nuclear Waste Policy Act of
31 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that
32 term is defined in section 2(23) of the Nuclear Waste Policy
33 Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for
34 any term of years or for life.

35 “(d) PENALTY WHEN DEATH RESULTS.—Whoever is con-
36 victed under subsection (a) and intended to cause death by the
37 prohibited conduct, if the conduct resulted in the death of any

1 person, shall be subject to the death penalty or to imprison-
2 ment for any term of years or for life.

3 “(e) THREATS.—Whoever knowingly and intentionally im-
4 parts or conveys any threat to do an act which would violate
5 this subchapter, with an apparent determination and will to
6 carry the threat into execution, shall be imprisoned not more
7 than 5 years and is liable for all costs incurred as a result of
8 such threat.

9 **“§ 1353. Imparting or conveying false information**

10 “(a) IN GENERAL.—Whoever imparts or conveys or causes
11 to be imparted or conveyed false information, knowing the in-
12 formation to be false, concerning an attempt or alleged attempt
13 being made or to be made, to do any act that would be a crime
14 prohibited by this subchapter or by subchapter D, shall be sub-
15 ject to a civil penalty of not more than \$5,000, which shall be
16 recoverable in a civil action brought in the name of the United
17 States.

18 “(b) MALICIOUS CONDUCT.—Whoever knowingly, inten-
19 tionally, maliciously, or with reckless disregard for the safety
20 of human life, imparts or conveys or causes to be imparted or
21 conveyed false information, knowing the information to be
22 false, concerning an attempt or alleged attempt to do any act
23 which would be a crime prohibited by this subchapter or by
24 subchapter D, shall be imprisoned not more than 5 years.

25 “(c) JURISDICTION.—Jurisdiction over an offense under this
26 section shall be determined in accordance with the provisions
27 applicable to the offense under section 1352, or under sub-
28 chapter D, to which the imparted or conveyed false information
29 relates, as applicable.

30 **“§ 1354. Bar to prosecution**

31 “(a) IN GENERAL.—It is a bar to prosecution under section
32 1352 or 1353 that—

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

1 “(2) such conduct is prohibited as a misdemeanor, and
2 not as a felony, under the law of the State in which it was
3 committed.

4 “(b) DEFINITION.—In this section, the term ‘labor dispute’
5 has the meaning given that term in section 13(c) of the Act
6 to amend the Judicial Code and to define and limit the jurisdic-
7 tion of courts sitting in equity, and for other purposes (29
8 U.S.C. 113(c), commonly known as the Norris-LaGuardia Act).

9 **“§ 1355. Bribery affecting port security**

10 “(a) IN GENERAL.—Whoever knowingly—

11 “(1) directly or indirectly, corruptly gives, offers, or
12 promises anything of value to any public or private person,
13 with intent to commit international terrorism or domestic
14 terrorism (as those terms are defined under section 283),
15 to—

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

20 “(B) induce any official or person to do or omit to
21 do any act in violation of the lawful duty of such offi-
22 cial or person that affects any secure or restricted area
23 or seaport; or

24 “(2) directly or indirectly, corruptly demands, seeks, re-
25 ceives, accepts, or agrees to receive or accept anything of
26 value personally or for any other person or entity in return
27 for—

28 “(A) being influenced in the performance of any offi-
29 cial act affecting any secure or restricted area or sea-
30 port; and

31 “(B) knowing that such influence will be used to
32 commit, or plan to commit, international or domestic
33 terrorism,

34 shall be imprisoned not more than 15 years.

35 “(b) DEFINITION.—In this section, the term ‘secure or re-
36 stricted area’ means an area of a vessel or facility designated
37 as secure in an approved security plan, as required under sec-

1 tion 70103 of title 46, United States Code, and the rules and
2 regulations promulgated under that section.

3 **“CHAPTER 35—REGULATORY CRIMES**

| “Subchapter | Sec. |
|---|-------------|
| “A. Animals, birds, fish, and plants | 1371 |
| “B. Gambling | 1381 |
| “C. Protection of trade secrets | 1391 |
| “D. Trafficking in contraband cigarettes | 1411 |
| “E. Child support | 1431 |
| “F. Obscenity | 1441 |
| “G. Money laundering | 1451 |

4 **“SUBCHAPTER A—ANIMALS, BIRDS, FISH, AND**
5 **PLANTS**

“Sec.

“1371. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.

“1372. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations.

“1373. Force, violence, and threats involving animal enterprises.

“1374. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes.

“1375. Depiction of animal cruelty.

“1376. Enforcement of animal fighting prohibitions.

6 **“§ 1371. Hunting, fishing, trapping; disturbance or**
7 **injury on wildlife refuges**

8 “Whoever, except in compliance with rules and regulations
9 promulgated by authority of law, hunts, traps, captures, will-
10 fully disturbs or kills any bird, fish, or wild animal of any kind
11 whatever, or takes or destroys the eggs or nest of any such bird
12 or fish, on any lands or waters which are set apart or reserved
13 as sanctuaries, refuges or breeding grounds for such birds, fish,
14 or animals under any law of the United States or willfully in-
15 jures, molests, or destroys any property of the United States
16 on any such lands or waters, shall be imprisoned not more than
17 six months.

1 **“§ 1372. Importation or shipment of injurious**
2 **mammals, birds, fish (including mollusks**
3 **and crustacea), amphibia, and reptiles;**
4 **permits, specimens for museums; regula-**
5 **tions**

6 “(a) PROHIBITION.—The importation into the United States,
7 any territory of the United States, the District of Columbia,
8 the Commonwealth of Puerto Rico, or any possession of the
9 United States, or any shipment between the continental United
10 States, the District of Columbia, Hawaii, the Commonwealth of
11 Puerto Rico, or any possession of the United States, of the
12 mongoose of the species *Herpestes auropunctatus*; of the spe-
13 cies of so-called ‘flying foxes’ or fruit bats of the genus
14 *Pteropus*; of the zebra mussel of the species *Dreissena*
15 *polymorpha*; and such other species of wild mammals, wild
16 birds, fish (including mollusks and crustacea), amphibians, rep-
17 tiles, brown tree snakes, or the offspring or eggs of any of the
18 foregoing which the Secretary of the Interior may prescribe by
19 regulation to be injurious to human beings, to the interests of
20 agriculture, horticulture, forestry, or to wildlife or the wildlife
21 resources of the United States, is hereby prohibited. All such
22 prohibited mammals, birds, fish (including mollusks and
23 crustacea), amphibians, and reptiles, and the eggs or offspring
24 therefrom, shall be promptly exported or destroyed at the ex-
25 pense of the importer or consignee. Nothing in this section
26 shall be construed to repeal or modify any provision of the Pub-
27 lic Health Service Act or Federal Food, Drug, and Cosmetic
28 Act. Also, this section shall not authorize any action with re-
29 spect to the importation of any plant pest as defined in the
30 Federal Plant Pest Act, insofar as such importation is subject
31 to regulation under that Act.

32 “(b) DEFINITION.—As used in subsection (a), the term ‘wild’
33 relates to any creatures that, whether or not raised in captivity,
34 normally are found in a wild state; and the terms ‘wildlife’ and
35 ‘wildlife resources’ include those resources that comprise wild
36 mammals, wild birds, fish (including mollusks and crustacea),
37 and all other classes of wild creatures whatsoever, and all types

1 of aquatic and land vegetation upon which such wildlife re-
2 sources are dependent.

3 “(c) PERMISSION FOR IMPORTATION.—Notwithstanding the
4 foregoing, the Secretary of the Interior, when he finds that
5 there has been a proper showing of responsibility and continued
6 protection of the public interest and health, shall permit the
7 importation for zoological, educational, medical, and scientific
8 purposes of any mammals, birds, fish, (including mollusks and
9 crustacea), amphibia, and reptiles, or the offspring or eggs
10 thereof, where such importation would be prohibited otherwise
11 by or pursuant to this Act, and this Act shall not restrict im-
12 portations by Federal agencies for their own use.

13 “(d) EXCLUSION.—Nothing in this section restricts the im-
14 portation of dead natural-history specimens for museums or for
15 scientific collections, or the importation of domesticated canar-
16 ies, parrots (including all other species of psittacine birds), or
17 such other cage birds as the Secretary of the Interior may des-
18 ignate.

19 “(e) ENFORCEMENT.—The Secretary of the Treasury and
20 the Secretary of the Interior shall enforce the provisions of this
21 subsection, including any regulations issued hereunder, and, if
22 requested by the Secretary of the Interior, the Secretary of the
23 Treasury may require the furnishing of an appropriate bond
24 when desirable to insure compliance with such provisions.

25 “(f) OFFENSE.—Whoever violates this section, or any regula-
26 tion issued pursuant thereto, shall be imprisoned not more than
27 six months.

28 **“§ 1373. Force, violence, and threats involving ani-
29 mal enterprises**

30 “(a) OFFENSE.—Whoever travels in interstate or foreign
31 commerce, or uses or causes to be used the mail or any facility
32 of interstate or foreign commerce—

33 “(1) for the purpose of damaging or interfering with the
34 operations of an animal enterprise; and

35 “(2) in connection with such purpose—

36 “(A) intentionally damages or causes the loss of any
37 real or personal property (including animals or records)

1 used by an animal enterprise, or any real or personal
2 property of a person or entity having a connection to,
3 relationship with, or transactions with an animal enter-
4 prise;

5 “(B) intentionally places a person in reasonable fear
6 of the death of, or serious bodily injury to that person,
7 a member of the immediate family (as defined in sec-
8 tion 115) of that person, or a spouse or intimate part-
9 ner of that person by a course of conduct involving
10 threats, acts of vandalism, property damage, criminal
11 trespass, harassment, or intimidation; or

12 “(C) conspires or attempts to do so;

13 shall be punished as provided for in subsection (b).

14 “(b) PENALTIES.—The punishment for a violation of section
15 (a) or an attempt or conspiracy to violate subsection (a) shall
16 be—

17 “(1) a fine under this title or imprisonment not more
18 than 1 year, or both, if the offense does not instill in an-
19 other the reasonable fear of serious bodily injury or death
20 and—

21 “(A) the offense results in no economic damage or
22 bodily injury; or

23 “(B) the offense results in economic damage that
24 does not exceed \$10,000;

25 “(2) a fine under this title or imprisonment for not more
26 than 5 years, or both, if no bodily injury occurs and—

27 “(A) the offense results in economic damage exceed-
28 ing \$10,000 but not exceeding \$100,000; or

29 “(B) the offense instills in another the reasonable
30 fear of serious bodily injury or death;

31 “(3) a fine under this title or imprisonment for not more
32 than 10 years, or both, if—

33 “(A) the offense results in economic damage exceed-
34 ing \$100,000; or

35 “(B) the offense results in substantial bodily injury
36 to another individual;

1 “(4) a fine under this title or imprisonment for not more
2 than 20 years, or both, if—

3 “(A) the offense results in serious bodily injury to
4 another individual; or

5 “(B) the offense results in economic damage exceed-
6 ing \$1,000,000; and

7 “(5) imprisonment for life or for any terms of years, a
8 fine under this title, or both, if the offense results in death
9 of another individual.

10 “(c) RESTITUTION.—An order of restitution under this title
11 with respect to a violation of this section may also include res-
12 titution—

13 “(1) for the reasonable cost of repeating any experimen-
14 tation that was interrupted or invalidated as a result of the
15 offense;

16 “(2) for the loss of food production or farm income rea-
17 sonably attributable to the offense; and

18 “(3) for any other economic damage, including any losses
19 or costs caused by economic disruption, resulting from the
20 offense.

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

22 “(1) the term ‘animal enterprise’ means—

23 “(A) a commercial or academic enterprise that uses
24 or sells animals or animal products for profit, food or
25 fiber production, agriculture, education, research, or
26 testing;

27 “(B) a zoo, aquarium, animal shelter, pet store,
28 breeder, furrier, circus, or rodeo, or other lawful com-
29 petitive animal event; or

30 “(C) any fair or similar event intended to advance
31 agricultural arts and sciences;

32 “(2) the term ‘course of conduct’ means a pattern of
33 conduct composed of 2 or more acts, evidencing a con-
34 tinuity of purpose;

35 “(3) the term ‘economic damage’—

36 “(A) means the replacement costs of lost or damaged
37 property or records, the costs of repeating an inter-

1 rupted or invalidated experiment, the loss of profits, or
 2 increased costs, including losses and increased costs re-
 3 sulting from threats, acts or vandalism, property dam-
 4 age, trespass, harassment, or intimidation taken
 5 against a person or entity on account of that person’s
 6 or entity’s connection to, relationship with, or trans-
 7 actions with the animal enterprise; but

8 “(B) does not include any lawful economic disruption
 9 (including a lawful boycott) that results from lawful
 10 public, governmental, or business reaction to the disclo-
 11 sure of information about an animal enterprise;

12 “(4) the term ‘serious bodily injury’ means—

13 “(A) injury posing a substantial risk of death;

14 “(B) extreme physical pain;

15 “(C) protracted and obvious disfigurement; or

16 “(D) protracted loss or impairment of the function
 17 of a bodily member, organ, or mental faculty; and

18 “(5) the term ‘substantial bodily injury’ means—

19 “(A) deep cuts and serious burns or abrasions;

20 “(B) short-term or nonobvious disfigurement;

21 “(C) fractured or dislocated bones, or torn members
 22 of the body;

23 “(D) significant physical pain;

24 “(E) illness;

25 “(F) short-term loss or impairment of the function
 26 of a bodily member, organ, or mental faculty; or

27 “(G) any other significant injury to the body.

28 “(e) RULES OF CONSTRUCTION.—Nothing in this section
 29 shall be construed—

30 “(1) to prohibit any expressive conduct (including peace-
 31 ful picketing or other peaceful demonstration) protected
 32 from legal prohibition by the First Amendment to the Con-
 33 stitution;

34 “(2) to create new remedies for interference with activi-
 35 ties protected by the free speech or free exercise clauses of
 36 the First Amendment to the Constitution, regardless of the

1 point of view expressed, or to limit any existing legal rem-
2 edies for such interference; or

3 “(3) to provide exclusive criminal penalties or civil rem-
4 edies with respect to the conduct prohibited by this action,
5 or to preempt State or local laws that may provide such
6 penalties or remedies.

7 **“§ 1374. Use of aircraft or motor vehicles to hunt**
8 **certain wild horses or burros; pollution of**
9 **watering holes**

10 “(a) AIRCRAFT FOR HUNTING.—Whoever uses an aircraft or
11 a motor vehicle to hunt, for the purpose of capturing or killing,
12 any wild unbranded horse, mare, colt, or burro running at large
13 on any of the public land or ranges shall be imprisoned not
14 more than six months.

15 “(b) POLLUTION OF WATERING HOLES.—Whoever pollutes
16 or causes the pollution of any watering hole on any of the pub-
17 lic land or ranges for the purpose of trapping, killing, wound-
18 ing, or maiming any of the animals referred to in subsection
19 (a) of this section shall be imprisoned not more than six
20 months.

21 “(c) DEFINITIONS.—As used in subsection (a) of this sec-
22 tion—

23 “(1) the term ‘aircraft’ means any contrivance used for
24 flight in the air; and

25 “(2) the term ‘motor vehicle’ includes an automobile,
26 automobile truck, automobile wagon, motorcycle, or any
27 other self-propelled vehicle designed for running on land.

28 **“§ 1375. Depiction of animal cruelty**

29 “(a) CREATION, SALE, OR POSSESSION.—Whoever knowingly
30 creates, sells, or possesses a depiction of animal cruelty with
31 the intention of placing that depiction in interstate or foreign
32 commerce for commercial gain, shall be imprisoned not more
33 than 5 years.

34 “(b) EXCEPTION.—Subsection (a) does not apply to any de-
35 piction that has serious religious, political, scientific, edu-
36 cational, journalistic, historical, or artistic value.

1 “(c) DEFINITIONS.—In this section, the term ‘depiction of
2 animal cruelty’ means any visual or auditory depiction, includ-
3 ing any photograph, motion-picture film, video recording, elec-
4 tronic image, or sound recording of conduct in which a living
5 animal is intentionally maimed, mutilated, tortured, wounded,
6 or killed, if such conduct is illegal under Federal law or the law
7 of the State in which the creation, sale, or possession takes
8 place, regardless of whether the maiming, mutilation, torture,
9 wounding, or killing took place in the State.

10 **“§ 1376. Enforcement of animal fighting prohibi-**
11 **tions**

12 “Whoever violates subsection (a), (b), (c), or (e) of section
13 26 of the Animal Welfare Act shall be fined under this title,
14 imprisoned for not more than 3 years, or both.

15 “SUBCHAPTER B—GAMBLING

“Sec.

“1381. Transmission of wagering information; penalties.

“1382. Definitions.

16 **“§ 1381. Transmission of wagering information;**
17 **penalties**

18 “(a) OFFENSE.—Whoever being engaged in the business of
19 betting or wagering knowingly uses a wire communication facil-
20 ity for the transmission in interstate or foreign commerce of
21 bets or wagers or information assisting in the placing of bets
22 or wagers on any sporting event or contest, or for the trans-
23 mission of a wire communication which entitles the recipient to
24 receive money or credit as a result of bets or wagers, or for
25 information assisting in the placing of bets or wagers, shall be
26 imprisoned not more than two years.

27 “(b) EXCLUSION.—Nothing in this section shall be construed
28 to prevent the transmission in interstate or foreign commerce
29 of information for use in news reporting of sporting events or
30 contests, or for the transmission of information assisting in the
31 placing of bets or wagers on a sporting event or contest from
32 a State or foreign country where betting on that sporting event
33 or contest is legal into a State or foreign country in which such
34 betting is legal.

1 “(c) NONPREEMPTION.—Nothing contained in this section
2 shall create immunity from criminal prosecution under any
3 laws of any State.

4 “(d) NOTIFICATION TO COMMON CARRIER.—When any com-
5 mon carrier, subject to the jurisdiction of the Federal Commu-
6 nications Commission, is notified in writing by a Federal,
7 State, or local law enforcement agency, acting within its juris-
8 diction, that any facility furnished by it is being used or will
9 be used for the purpose of transmitting or receiving gambling
10 information in interstate or foreign commerce in violation of
11 Federal, State or local law, it shall discontinue or refuse, the
12 leasing, furnishing, or maintaining of such facility, after rea-
13 sonable notice to the subscriber, but no damages, penalty or
14 forfeiture, civil or criminal, shall be found against any common
15 carrier for any act done in compliance with any notice received
16 from a law enforcement agency. Nothing in this section shall
17 be deemed to prejudice the right of any person affected thereby
18 to secure an appropriate determination, as otherwise provided
19 by law, in a Federal court or in a State or local tribunal or
20 agency, that such facility should not be discontinued or re-
21 moved, or should be restored.

22 **“§ 1382. Definitions**

23 “As used in this subchapter—

24 “(1) the term ‘gambling ship’ means a vessel used prin-
25 cipally for the operation of one or more gambling establish-
26 ments. Such term does not include a vessel with respect to
27 gambling aboard such vessel beyond the territorial waters
28 of the United States during a covered voyage (as defined
29 in section 4472 of the Internal Revenue Code of 1986 as
30 in effect on January 1, 1994);

31 “(2) the term ‘gambling establishment’ means any com-
32 mon gaming or gambling establishment operated for the
33 purpose of gaming or gambling, including accepting, re-
34 cording, or registering bets, or carrying on a policy game
35 or any other lottery, or playing any game of chance, for
36 money or other thing of value;

1 “(3) the term ‘American vessel’ means any vessel docu-
 2 mented or numbered under the laws of the United States;
 3 and includes any vessel which is neither documented or
 4 numbered under the laws of the United States nor docu-
 5 mented under the laws of any foreign country, if such ves-
 6 sel is owned by, chartered to, or otherwise controlled by one
 7 or more citizens or residents of the United States or cor-
 8 porations organized under the laws of the United States or
 9 of any State; and

10 “(4) the term ‘wire communication facility’ means any
 11 and all instrumentalities, personnel, and services (among
 12 other things, the receipt, forwarding, or delivery of commu-
 13 nications) used or useful in the transmission of writings,
 14 signs, pictures, and sounds of all kinds by aid of wire,
 15 cable, or other like connection between the points of origin
 16 and reception of such transmission.

17 “SUBCHAPTER C—PROTECTION OF TRADE 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. Construction with other laws.

“1398. Definitions.

18 **“§ 1391. Economic espionage**

19 “(a) IN GENERAL.—Whoever, intending or knowing that the
 20 offense will benefit any foreign government, foreign instrumen-
 21 tality, or foreign agent, knowingly—

22 “(1) steals, or without authorization appropriates, takes,
 23 carries away, or conceals, or by fraud, artifice, or deception
 24 obtains a trade secret;

25 “(2) without authorization copies, duplicates, sketches,
 26 draws, photographs, downloads, uploads, alters, destroys,
 27 photocopies, replicates, transmits, delivers, sends, mails,
 28 communicates, or conveys a trade secret;

1 “(3) receives, buys, or possesses a trade secret, knowing
2 the same to have been stolen or appropriated, obtained, or
3 converted without authorization;

4 “(4) attempts to commit any offense described in any of
5 paragraphs (1) through (3); or

6 “(5) conspires with one or more other persons to commit
7 any offense described in any of paragraphs (1) through (3),
8 and one or more of such persons do any act to effect the
9 object of the conspiracy,

10 shall, except as provided in subsection (b), be imprisoned not
11 more than 15 years.

12 “(b) ORGANIZATIONS.—Any organization that commits any
13 offense described in subsection (a) shall be fined not more than
14 \$10,000,000.

15 **“§ 1392. Theft of trade secrets**

16 “(a) OFFENSE.—Whoever, with intent to convert a trade se-
17 cret, that is related to or included in a product that is produced
18 for or placed in interstate or foreign commerce, to the economic
19 benefit of anyone other than the owner thereof, and intending
20 or knowing that the offense will, injure any owner of that trade
21 secret, knowingly—

22 “(1) steals, or without authorization appropriates, takes,
23 carries away, or conceals, or by fraud, artifice, or deception
24 obtains such information;

25 “(2) without authorization copies, duplicates, sketches,
26 draws, photographs, downloads, uploads, alters, destroys,
27 photocopies, replicates, transmits, delivers, sends, mails,
28 communicates, or conveys such information;

29 “(3) receives, buys, or possesses such information, know-
30 ing the same to have been stolen or appropriated, obtained,
31 or converted without authorization;

32 “(4) attempts to commit any offense described in para-
33 graphs (1) through (3); or

34 “(5) conspires with one or more other persons to commit
35 any offense described in paragraphs (1) through (3), and
36 one or more of such persons do any act to effect the object
37 of the conspiracy,

1 shall, except as provided in subsection (b), be imprisoned not
2 more than 10 years.

3 “(b) ORGANIZATIONS.—Any organization that commits any
4 offense described in subsection (a) shall be fined not more than
5 \$5,000,000.

6 **“§ 1393. Exceptions to prohibitions**

7 “This subchapter does not prohibit—

8 “(1) any otherwise lawful activity conducted by a govern-
9 mental entity of the United States, a State, or a political
10 subdivision of a State; or

11 “(2) the reporting of a suspected violation of law to any
12 governmental entity of the United States, a State, or a po-
13 litical subdivision of a State, if such entity has lawful au-
14 thority with respect to that violation.

15 **“§ 1394. Orders to preserve confidentiality**

16 “In any prosecution or other proceeding under this sub-
17 chapter and any forfeiture relating to a violation of this sub-
18 chapter, the court shall enter such orders and take such other
19 action as may be necessary and appropriate to preserve the
20 confidentiality of trade secrets, consistent with the require-
21 ments of the Federal Rules of Criminal and Civil Procedure,
22 the Federal Rules of Evidence, and all other applicable laws.
23 An interlocutory appeal by the United States shall lie from a
24 decision or order of a district court authorizing or directing the
25 disclosure of any trade secret.

26 **“§ 1395. Civil proceedings to enjoin violations**

27 “(a) CIVIL ACTION.—The Attorney General may, in a civil
28 action, obtain appropriate injunctive relief against any violation
29 of this subchapter.

30 “(b) EXCLUSIVE JURISDICTION.—The district courts of the
31 United States shall have exclusive original jurisdiction of civil
32 actions under this section.

33 **“§ 1396. Applicability to conduct outside the**
34 **United States**

35 “This subchapter also applies to conduct occurring outside
36 the United States if—

1 “(1) the offender is a natural person who is a citizen or
2 permanent resident alien of the United States, or an orga-
3 nization organized under the laws of the United States or
4 a State or political subdivision thereof; or

5 “(2) an act in furtherance of the offense was committed
6 in the United States.

7 **“§ 1397. Construction with other laws**

8 “‘This subchapter shall not be construed to preempt or dis-
9 place any other remedies, whether civil or criminal, provided by
10 United States Federal, State, commonwealth, possession, or
11 territory law for the misappropriation of a trade secret, or to
12 affect the otherwise lawful disclosure of information by any
13 Government employee under section 552 of title 5 (commonly
14 known as the Freedom of Information Act).

15 **“§ 1398. Definitions**

16 “‘As used in this subchapter—

17 “(1) the term ‘foreign instrumentality,’ means any agen-
18 cy, bureau, ministry, component, institution, association, or
19 any legal, commercial, or business organization, corpora-
20 tion, firm, or entity that is substantially owned, controlled,
21 sponsored, commanded, managed, or dominated by a for-
22 eign government;

23 “(2) the term ‘foreign agent’ means any officer, em-
24 ployee, proxy, servant, delegate, or representative of a for-
25 eign government;

26 “(3) the term ‘trade secret’ means all forms and types
27 of financial, business, scientific, technical, economic, or en-
28 gineering information, including patterns, plans, compila-
29 tions, program devices, formulas, designs, prototypes, meth-
30 ods, techniques, processes, procedures, programs, or codes,
31 whether tangible or intangible, and whether or how stored,
32 compiled, or memorialized physically, electronically, graphi-
33 cally, photographically, or in writing if—

34 “(A) the owner thereof has taken reasonable meas-
35 ures to keep such information secret; and

36 “(B) the information derives independent economic
37 value, actual or potential, from not being generally

1 known to, and not being readily ascertainable through
2 proper means by, the public; and

3 “(4) the term ‘owner’, with respect to a trade secret,
4 means the person or entity in whom or in which rightful
5 legal or equitable title to, or license in, the trade secret is
6 reposed.

7 “SUBCHAPTER D—TRAFFICKING IN CONTRABAND
8 CIGARETTES

“Sec.

“1411. Definitions.

“1412. Unlawful acts.

“1413. Recordkeeping, reporting, and inspection.

“1414. Penalties.

“1415. Effect on State and local law.

“1416. Enforcement and regulations.

9 **“§ 1411. Definitions**

10 “As used in this chapter—

11 “(1) the term ‘cigarette’ means—

12 “(A) any roll of tobacco wrapped in paper or in any
13 substance not containing tobacco; and

14 “(B) any roll of tobacco wrapped in any substance
15 containing tobacco which, because of its appearance,
16 the type of tobacco used in the filler, or its packaging
17 and labeling, is likely to be offered to, or purchased by,
18 consumers as a cigarette described in subparagraph
19 (A);

20 “(2) the term ‘contraband cigarettes’ means a quantity
21 in excess of 10,000 cigarettes, which bear no evidence of
22 the payment of applicable State or local cigarette taxes in
23 the State or locality where such cigarettes are found, if the
24 State or local government requires a stamp, impression, or
25 other indication to be placed on packages or other con-
26 tainers of cigarettes to evidence payment of cigarette taxes,
27 and which are in the possession of any person other than—

28 “(A) a person holding a permit issued pursuant to
29 chapter 52 of the Internal Revenue Code of 1986 as a
30 manufacturer of tobacco products or as an export ware-
31 house proprietor, or a person operating a customs
32 bonded warehouse pursuant to section 311 or 555 of

1 the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or
2 an agent of such person;

3 “(B) a common or contract carrier transporting the
4 cigarettes involved under a proper bill of lading or
5 freight bill which states the quantity, source, and des-
6 tination of such cigarettes;

7 “(C) a person—

8 “(i) who is licensed or otherwise authorized by
9 the State where the cigarettes are found to account
10 for and pay cigarette taxes imposed by such State;
11 and

12 “(ii) who has complied with the accounting and
13 payment requirements relating to such license or
14 authorization with respect to the cigarettes in-
15 volved; or

16 “(D) an officer, employee, or other agent of the
17 United States or a State, or any department, agency,
18 or instrumentality of the United States or a State (in-
19 cluding any political subdivision of a State) having pos-
20 session of such cigarettes in connection with the per-
21 formance of official duties;

22 “(3) the term ‘common or contract carrier’ means a car-
23 rier holding a certificate of convenience and necessity, a
24 permit for contract carrier by motor vehicle, or other valid
25 operating authority under subtitle IV of title 49, or under
26 equivalent operating authority from a regulatory agency of
27 the United States or of any State;

28 “(4) the term ‘State’ means a State of the United
29 States, the District of Columbia, the Commonwealth of
30 Puerto Rico, or the Virgin Islands;

31 “(5) the term ‘Attorney General’ means the Attorney
32 General of the United States;

33 “(6) the term ‘smokeless tobacco’ means any finely cut,
34 ground, powdered, or leaf tobacco that is intended to be
35 placed in the oral or nasal cavity or otherwise consumed
36 without being combusted;

1 “(7) the term ‘contraband smokeless tobacco’ means a
2 quantity in excess of 500 single-unit consumer-sized cans
3 or packages of smokeless tobacco, or their equivalent, that
4 are in the possession of any person other than—

5 “(A) a person holding a permit issued pursuant to
6 chapter 52 of the Internal Revenue Code of 1986 as
7 manufacturer of tobacco products or as an export ware-
8 house proprietor, a person operating a customs bonded
9 warehouse pursuant to section 311 or 555 of the Tariff
10 Act of 1930 (19 U.S.C. 1311, 1555), or an agent of
11 such person;

12 “(B) a common carrier transporting such smokeless
13 tobacco under a proper bill of lading or freight bill
14 which states the quantity, source, and designation of
15 such smokeless tobacco;

16 “(C) a person who—

17 “(i) is licensed or otherwise authorized by the
18 State where such smokeless tobacco is found to en-
19 gage in the business of selling or distributing to-
20 bacco products; and

21 “(ii) has complied with the accounting, tax, and
22 payment requirements relating to such license or
23 authorization with respect to such smokeless to-
24 bacco; or

25 “(D) an officer, employee, or agent of the United
26 States or a State, or any department, agency, or in-
27 strumentality of the United States or a State (includ-
28 ing any political subdivision of a State), having posses-
29 sion of such smokeless tobacco in connection with the
30 performance of official duties;

31 **“§ 1412. Unlawful acts**

32 “‘It shall be unlawful for any person knowingly to ship,
33 transport, receive, possess, sell, distribute, or purchase contra-
34 band cigarettes or contraband smokeless tobacco.

35 **“§ 1413. Recordkeeping, reporting, and inspection**

36 “(a) RECORDKEEPING.—Whoever ships, sells, or distributes
37 any quantity of cigarettes in excess of 10,000, or any quantity

1 of smokeless tobacco in excess of 500 single-unit consumer-
2 sized cans or packages, in a single transaction shall maintain
3 such information about the shipment, receipt, sale, and dis-
4 tribution of cigarettes as the Attorney General may prescribe
5 by rule or regulation. The Attorney General may require such
6 person to keep such information as the Attorney General con-
7 siders appropriate for purposes of enforcement of this chapter,
8 including—

9 “(1) the name, address, destination (including street ad-
10 dress), vehicle license number, driver’s license number, sig-
11 nature of the person receiving such cigarettes, and the
12 name of the purchaser;

13 “(2) a declaration of the specific purpose of the receipt
14 (personal use, resale, or delivery to another); and

15 “(3) a declaration of the name and address of the recipi-
16 ent’s principal in all cases when the recipient is acting as
17 an agent.

18 Such information shall be contained on business records kept
19 in the normal course of business.

20 “(b) REPORTING.—Whoever, except for a tribal government,
21 engages in a delivery sale, and who ships, sells, or distributes
22 any quantity in excess of 10,000 cigarettes, or any quantity in
23 excess of 500 single-unit consumer-sized cans or packages of
24 smokeless tobacco, or their equivalent, within a single month,
25 shall submit to the Attorney General, pursuant to rules or reg-
26 ulations prescribed by the Attorney General, a report that sets
27 forth the following:

28 “(1) The person’s beginning and ending inventory of
29 cigarettes and cans or packages of smokeless tobacco (in
30 total) for such month.

31 “(2) The total quantity of cigarettes and cans or pack-
32 ages of smokeless tobacco that the person received within
33 such month from each other person (itemized by name and
34 address).

35 “(3) The total quantity of cigarettes and cans or pack-
36 ages of smokeless tobacco that the person distributed with-

1 in such month to each person (itemized by name and ad-
2 dress) other than a retail purchaser.

3 “(c) INSPECTION.—Upon the consent of any person who
4 ships, sells, or distributes any quantity of cigarettes in excess
5 of 10,000 in a single transaction, or pursuant to a duly issued
6 search warrant, the Attorney General may enter the premises
7 (including places of storage) of such person for the purpose of
8 inspecting any records or information required to be main-
9 tained by such person under this chapter, and any cigarettes
10 kept or stored by such person at such premises.

11 “(d) OTHERS TO RECEIVE REPORTS.—Any report required
12 to be submitted under this subchapter to the Attorney General
13 shall also be submitted to the Secretary of the Treasury and
14 to the attorneys general and the tax administrators of the
15 States from where the shipments, deliveries, or distributions
16 both originated and concluded.

17 “(e) DELIVERY SALE DEFINED.—As used in this section,
18 the term ‘delivery sale’ means any sale of cigarettes or smoke-
19 less tobacco in interstate commerce to a consumer if—

20 “(1) the consumer submits the order for such sale by
21 means of a telephone or other method of voice trans-
22 mission, the mails, or the Internet or other online service,
23 or by any other means where the consumer is not in the
24 same physical location as the seller when the purchase or
25 offer of sale is made; or

26 “(2) the cigarettes or smokeless tobacco are delivered by
27 use of the mails, common carrier, private delivery service,
28 or any other means where the consumer is not in the same
29 physical location as the seller when the consumer obtains
30 physical possession of the cigarettes or smokeless tobacco.

31 **“§ 1414. Penalties**

32 “(a) 1412(a) VIOLATIONS.—Whoever knowingly violates sec-
33 tion 1412(a) shall be imprisoned not more than five years.

34 “(b) 1413(a) AND 1416 VIOLATIONS.—Whoever knowingly
35 violates any rule or regulation promulgated under section
36 1413(a) or 1416 or violates section 1412(b) shall be imprisoned
37 not more than three years.

1 “(c) SEIZURE AND FORFEITURE.—Any contraband ciga-
 2 rettes or contraband smokeless tobacco involved in any violation
 3 of the provisions of this chapter shall be subject to seizure and
 4 forfeiture. The provisions of chapter 50 relating to civil forfeit-
 5 ures shall extend to any seizure or civil forfeiture under this
 6 section. Any cigarettes or smokeless tobacco so seized and for-
 7 feited shall be either—

8 “(1) destroyed and not resold; or

9 “(2) used for undercover investigative operations for the
 10 detection and prosecution of crimes, and then destroyed
 11 and not resold.

12 **“§ 1415. Effect on State and local law**

13 “(a) Nothing in this chapter shall be construed to affect the
 14 concurrent jurisdiction of a State or local government to enact
 15 and enforce its own cigarette tax laws, to provide for the confis-
 16 cation of cigarettes or smokeless tobacco and other property
 17 seized for violation of such laws, and to provide for penalties
 18 for the violation of such laws.

19 “(b) Nothing in this chapter shall be construed to inhibit or
 20 otherwise affect any coordinated law enforcement effort by a
 21 number of State or local governments, through interstate com-
 22 pact or otherwise, to provide for the administration of State or
 23 local cigarette tax laws, to provide for the confiscation of ciga-
 24 rettes or smokeless tobacco and other property seized in viola-
 25 tion of such laws, and to establish cooperative programs for the
 26 administration of such laws.

27 **“§ 1416. Enforcement and regulations**

28 “(a) GENERALLY.—The Attorney General, subject to the
 29 provisions of section 1413(a), shall enforce this subchapter and
 30 may prescribe rules and regulations to carry out this sub-
 31 chapter.

32 “(b) STATE ENFORCEMENT THROUGH CIVIL ACTIONS.—

33 “(1) A State, through its attorney general, a local gov-
 34 ernment, through its chief law enforcement officer (or a
 35 designee thereof), or any person who holds a permit under
 36 chapter 52 of the Internal Revenue Code of 1986, may
 37 bring an action in the United States district courts to pre-

1 vent and restrain violations of this chapter by any person
 2 (or by any person controlling such person), except that any
 3 person who holds a permit under chapter 52 of the Internal
 4 Revenue Code of 1986 may not bring such an action
 5 against a State or local government. No civil action may be
 6 commenced under this paragraph against an Indian tribe
 7 or an Indian in Indian country (as defined in section
 8 1151).

9 “(2) A State, through its attorney general, or a local govern-
 10 ment, through its chief law enforcement officer (or a designee
 11 thereof), may in a civil action under paragraph (1) also obtain
 12 any other appropriate relief for violations of this chapter from
 13 any person (or by any person controlling such person), includ-
 14 ing civil penalties, money damages, and injunctive or other eq-
 15 uitable relief. Nothing in this chapter shall be deemed to abro-
 16 gate or constitute a waiver of any sovereign immunity of a
 17 State or local government, or an Indian tribe against any
 18 unconsented lawsuit under this chapter, or otherwise to re-
 19 strict, expand, or modify any sovereign immunity of a State or
 20 local government, or an Indian tribe.

21 “(3) The remedies under paragraphs (1) and (2) are in addi-
 22 tion to any other remedies under Federal, State, local, or other
 23 law.

24 “(4) Nothing in this chapter shall be construed to expand,
 25 restrict, or otherwise modify any right of an authorized State
 26 official to proceed in State court, or take other enforcement ac-
 27 tions, on the basis of an alleged violation of State or other law.

28 “(5) Nothing in this chapter shall be construed to expand,
 29 restrict, or otherwise modify any right of an authorized local
 30 government official to proceed in State court, or take other en-
 31 forcement actions, on the basis of an alleged violation of local
 32 or other law.

33 “SUBCHAPTER E—CHILD SUPPORT

“Sec.

“1431. Failure to pay legal child support obligations.

1 **“§ 1431. Failure to pay legal child support obliga-**
 2 **tions**

3 “(a) OFFENSE.—Whoever—

4 “(1) knowingly fails to pay a support obligation with re-
 5 spect to a child who resides in another State, if such obli-
 6 gation has remained unpaid for a period longer than 1
 7 year, or is greater than \$5,000;

8 “(2) travels in interstate or foreign commerce with the
 9 intent to evade a support obligation, if such obligation has
 10 remained unpaid for a period longer than 1 year, or is
 11 greater than \$5,000; or

12 “(3) knowingly fails to pay a support obligation with re-
 13 spect to a child who resides in another State, if such obli-
 14 gation has remained unpaid for a period longer than 2
 15 years, or is greater than \$10,000;

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

17 “(b) PRESUMPTION.—The existence of a support obligation
 18 that was in effect for the time period charged in the indictment
 19 or information creates a rebuttable presumption that the obli-
 20 gator has the ability to pay the support obligation for that time
 21 period.

22 “(c) PUNISHMENT.—The punishment for an offense under
 23 this section is—

24 “(1) in the case of a first offense under subsection
 25 (a)(1), imprisonment for not more than 6 months; and

26 “(2) in the case of an offense under paragraph (2) or (3)
 27 of subsection (a), or a second or subsequent offense under
 28 subsection (a)(1), imprisonment for not more than 2 years.

29 “(d) VENUE.—With respect to an offense under this section,
 30 an action may be inquired of and prosecuted in a district court
 31 of the United States for—

32 “(1) the district in which the child who is the subject of
 33 the support obligation involved resided during a period dur-
 34 ing which a person described in subsection (a) (referred to
 35 in this subsection as an ‘obligor’) failed to meet that sup-
 36 port obligation;

1 whom, or by what means any of such mentioned matters,
2 articles, or things may be obtained or made, or where or
3 by whom any act or operation of any kind for the procuring
4 or producing of abortion will be done or performed, or how
5 or by what means abortion may be produced, whether
6 sealed or unsealed.

7 “(5) Every paper, writing, advertisement, or representa-
8 tion that any article, instrument, substance, drug, medi-
9 cine, or thing may, or can, be used or applied for producing
10 abortion, or for any indecent or immoral purpose.

11 “(6) Every description calculated to induce or incite a
12 person to so use or apply any such article, instrument, sub-
13 stance, drug, medicine, or thing.

14 “(b) OFFENSE.—Whoever knowingly uses the mails for the
15 mailing, carriage in the mails, or delivery of anything declared
16 by this section or section 3001(e) of title 39 to be nonmailable,
17 or knowingly causes to be delivered by mail according to the
18 direction thereon, or at the place at which it is directed to be
19 delivered by the person to whom it is addressed, or knowingly
20 takes any such thing from the mails for the purpose of circu-
21 lating or disposing thereof, or of aiding in the circulation or
22 disposition thereof, shall be imprisoned not more than five
23 years, for the first such offense, and shall be imprisoned not
24 more than ten years for each such offense thereafter.

25 **“§ 1442. Importation or transportation of obscene**
26 **matters**

27 “Whoever—

28 “(1) brings into the United States, or any place subject
29 to the jurisdiction thereof, or knowingly uses any express
30 company or other common carrier or interactive computer
31 service (as defined in section 230(e)(2) of the Communica-
32 tions Act of 1934), for carriage in interstate or foreign
33 commerce—

34 “(A) any obscene, lewd, lascivious, or filthy book,
35 pamphlet, picture, motion-picture film, paper, letter,
36 writing, print, or other matter of indecent character;

1 “(B) any obscene, lewd, lascivious, or filthy phono-
2 graph recording, electrical transcription, or other arti-
3 cle or thing capable of producing sound; or

4 “(C) any drug, medicine, article, or thing designed,
5 adapted, or intended for producing abortion, or for any
6 indecent or immoral use; or any written or printed
7 card, letter, circular, book, pamphlet, advertisement, or
8 notice of any kind giving information, directly or indi-
9 rectly, where, how, or of whom, or by what means any
10 of such mentioned articles, matters, or things may be
11 obtained or made; or

12 “(2) knowingly takes or receives, from such express company
13 or other common carrier or interactive computer service (as de-
14 fined in section 230(e)(2) of the Communications Act of 1934)
15 any matter or thing the carriage or importation of which is
16 herein made unlawful;

17 shall be imprisoned not more than five years for the first such
18 offense and shall be imprisoned not more than ten years for
19 each such offense thereafter.

20 **“§ 1443. Transportation of obscene matters for**
21 **sale or distribution**

22 “(a) OFFENSE.—Whoever knowingly transports or travels in,
23 or uses a facility or means of, interstate or foreign commerce
24 or an interactive computer service (as defined in section
25 230(e)(2) of the Communications Act of 1934) in or affecting
26 such commerce for the purpose of sale or distribution, of any
27 obscene, lewd, lascivious, or filthy book, pamphlet, picture, film,
28 paper, letter, writing, print, silhouette, drawing, figure, image,
29 cast, phonograph recording, electrical transcription or other arti-
30 cle capable of producing sound or any other matter of inde-
31 cent or immoral character, shall be imprisoned not more than
32 five years.

33 “(b) PRESUMPTION.—The transportation as aforesaid of two
34 or more copies of any publication or two or more of any article
35 of the character described above, or a combined total of five
36 such publications and articles, shall create a presumption that

1 such publications or articles are intended for sale or distribu-
2 tion, but such presumption shall be rebuttable.

3 **“§ 1444. Engaging in the business of selling or**
4 **transferring obscene matter**

5 “(a) OFFENSE.—Whoever is engaged in the business of sell-
6 ing or transferring obscene matter, who knowingly receives or
7 possesses with intent to distribute any obscene book, magazine,
8 picture, paper, film, videotape, or phonograph or other audio
9 recording, which has been shipped or transported in interstate
10 or foreign commerce, shall be punished by imprisonment for
11 not more than 5 years or by a fine under this title, or both.

12 “(b) DEFINITION.—As used in this section, the term ‘en-
13 gaged in the business’ means that the person who sells or
14 transfers or offers to sell or transfer obscene matter devotes
15 time, attention, or labor to such activities, as a regular course
16 of trade or business, with the objective of earning a profit, al-
17 though it is not necessary that the person make a profit or that
18 the selling or transferring or offering to sell or transfer such
19 material be the person’s sole or principal business or source of
20 income. The offering for sale of or to transfer, at one time, two
21 or more copies of any obscene publication, or two or more of
22 any obscene article, or a combined total of five or more such
23 publications and articles, shall create a rebuttable presumption
24 that the person so offering them is ‘engaged in the business’
25 as defined in this subsection.

26 **“§ 1445. Obscene visual representations of the sex-**
27 **ual abuse of children**

28 “(a) IN GENERAL.—Whoever, as made applicable by sub-
29 section (d), knowingly produces, distributes, receives, or pos-
30 sesses with intent to distribute, a visual depiction of any kind,
31 including a drawing, cartoon, sculpture, or painting, that—

32 “(1)(A) depicts a minor engaging in sexually explicit con-
33 duct; and

34 “(B) is obscene; or

35 “(2)(A) depicts an image that is, or appears to be, of a
36 minor engaging in graphic bestiality, sadistic or masochistic
37 abuse, or sexual intercourse, including genital-genital, oral-

1 genital, anal-genital, or oral-anal, whether between persons
2 of the same or opposite sex; and

3 “(B) lacks serious literary, artistic, political, or scientific
4 value;

5 or attempts or conspires to do so, shall be subject to the pen-
6 alties provided in section 223(b)(1), including the penalties pro-
7 vided for cases involving a prior conviction.

8 “(b) ADDITIONAL OFFENSES.—Whoever, as made applicable
9 by subsection (d), knowingly possesses a visual depiction of any
10 kind, including a drawing, cartoon, sculpture, or painting,
11 that—

12 “(1)(A) depicts a minor engaging in sexually explicit con-
13 duct; and

14 “(B) is obscene; or

15 “(2)(A) depicts an image that is, or appears to be, of a
16 minor engaging in graphic bestiality, sadistic or masochistic
17 abuse, or sexual intercourse, including genital-genital, oral-
18 genital, anal-genital, or oral-anal, whether between persons
19 of the same or opposite sex; and

20 “(B) lacks serious literary, artistic, political, or scientific
21 value;

22 or attempts or conspires to do so, shall be subject to the pen-
23 alties provided in section 223(b)(2), including the penalties pro-
24 vided for cases involving a prior conviction.

25 “(c) NONREQUIRED ELEMENT OF OFFENSE.—It is not a re-
26 quired element of any offense under this section that the minor
27 depicted actually exist.

28 “(d) APPLICABILITY.—Subsections (a) and (b) apply if—

29 “(1) any communication involved in or made in further-
30 ance of the offense is communicated or transported by the
31 mail, or in interstate or foreign commerce by any means,
32 including by computer, or any means or instrumentality of
33 interstate or foreign commerce is otherwise used in commit-
34 ting or in furtherance of the commission of the offense;

35 “(2) any communication involved in or made in further-
36 ance of the offense contemplates the transmission or trans-

1 portation of a visual depiction by the mail, or in interstate
2 or foreign commerce by any means, including by computer;

3 “(3) any person travels or is transported in interstate or
4 foreign commerce in the course of the commission or in
5 furtherance of the commission of the offense;

6 “(4) any visual depiction involved in the offense has been
7 mailed, or has been shipped or transported in interstate or
8 foreign commerce by any means, including by computer, or
9 was produced using materials that have been mailed, or
10 that have been shipped or transported in interstate or for-
11 eign commerce by any means, including by computer; or

12 “(5) the offense is committed in the special maritime and
13 territorial jurisdiction of the United States or in any terri-
14 tory or possession of the United States.

15 “(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative de-
16 fense to a charge of violating subsection (b) that the defend-
17 ant—

18 “(1) possessed less than 3 such visual depictions; and

19 “(2) promptly and in good faith, and without retaining
20 or allowing any person, other than a law enforcement agen-
21 cy, to access any such visual depiction—

22 “(A) took reasonable steps to destroy each such vis-
23 ual depiction; or

24 “(B) reported the matter to a law enforcement agen-
25 cy and afforded that agency access to each such visual
26 depiction.

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

28 “(1) the term ‘visual depiction’ includes undeveloped film
29 and videotape, and data stored on a computer disk or by
30 electronic means which is capable of conversion into a vis-
31 ual image, and also includes any photograph, film, video,
32 picture, digital image or picture, computer image or pic-
33 ture, or computer generated image or picture, whether
34 made or produced by electronic, mechanical, or other
35 means;

36 “(2) the term ‘sexually explicit conduct’ has the meaning
37 given the term in section 229(2)(A) or 229(2)(B); and

1 “(3) the term ‘graphic’, when used with respect to a de-
2 piction of sexually explicit conduct, means that a viewer
3 can observe any part of the genitals or pubic area of any
4 depicted person or animal during any part of the time that
5 the sexually explicit conduct is being depicted.

6 **“§ 1446. Presumptions**

7 “(a) INTERSTATE COMMERCE.—In any prosecution under
8 this subchapter in which an element of the offense is that the
9 matter in question was transported, shipped, or carried in
10 interstate commerce, proof, by either circumstantial or direct
11 evidence, that such matter was produced or manufactured in
12 one State and is subsequently located in another State shall
13 raise a rebuttable presumption that such matter was trans-
14 ported, shipped, or carried in interstate commerce.

15 “(b) FOREIGN COMMERCE.—In any prosecution under this
16 subchapter in which an element of the offense is that the mat-
17 ter in question was transported, shipped, or carried in foreign
18 commerce, proof, by either circumstantial or direct evidence,
19 that such matter was produced or manufactured outside of the
20 United States and is subsequently located in the United States
21 shall raise a rebuttable presumption that such matter was
22 transported, shipped, or carried in foreign commerce.

23 **“§ 1447. Transfer of obscene material to minors**

24 “Whoever, using the mail or any facility or means of inter-
25 state or foreign commerce, knowingly transfers obscene matter
26 to another individual who has not attained the age of 16 years,
27 knowing that such other individual has not attained the age of
28 16 years, or attempts to do so, shall be imprisoned not more
29 than 10 years.

30 “SUBCHAPTER G—MONEY LAUNDERING

“Sec.

“1451. Laundering of monetary instruments.

“1452. Engaging in monetary transactions in property derived from speci-
fied unlawful activity.

“1453. Structuring transactions to evade reporting requirement prohib-
ited.

“1454. Bulk cash smuggling into or out of the United States.

“§ 1451. Laundering of monetary instruments

“(a) OFFENSES.—(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

“(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

“(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or

“(B) knowing that the transaction is designed in whole or in part—

“(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

“(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than \$500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both. For purposes of this paragraph, a financial transaction shall be considered to be one involving the proceeds of specified unlawful activity if it is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity, and all of which are part of a single plan or arrangement.

“(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

“(A) with the intent to promote the carrying on of specified unlawful activity; or

“(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and

1 knowing that such transportation, transmission, or transfer
2 is designed in whole or in part—

3 “(i) to conceal or disguise the nature, the location,
4 the source, the ownership, or the control of the pro-
5 ceeds of specified unlawful activity; or

6 “(ii) to avoid a transaction reporting requirement
7 under State or Federal law,

8 shall be sentenced to a fine of not more than \$500,000 or twice
9 the value of the monetary instrument or funds involved in the
10 transportation, transmission, or transfer, whichever is greater,
11 or imprisonment for not more than twenty years, or both. For
12 the purpose of the offense described in subparagraph (B), the
13 defendant’s knowledge may be established by proof that a law
14 enforcement officer represented the matter specified in sub-
15 paragraph (B) as true, and the defendant’s subsequent state-
16 ments or actions indicate that the defendant believed such rep-
17 resentations to be true.

18 “(3) Whoever, with the intent—

19 “(A) to promote the carrying on of specified unlawful ac-
20 tivity;

21 “(B) to conceal or disguise the nature, location, source,
22 ownership, or control of property believed to be the pro-
23 ceeds of specified unlawful activity; or

24 “(C) to avoid a transaction reporting requirement under
25 State or Federal law,

26 conducts or attempts to conduct a financial transaction involv-
27 ing property represented to be the proceeds of specified unlaw-
28 ful activity, or property used to conduct or facilitate specified
29 unlawful activity, shall be imprisoned for not more than 20
30 years. For purposes of this paragraph and paragraph (2), the
31 term ‘represented’ means any representation made by a law en-
32 forcement officer or by another person at the direction of, or
33 with the approval of, a Federal official authorized to investigate
34 or prosecute violations of this section.

35 “(b) PENALTIES.—

36 “(1) IN GENERAL.—Whoever conducts or attempts to
37 conduct a transaction described in subsection (a)(1) or

1 (a)(3), or section 1452, or a transportation, transmission,
2 or transfer described in subsection (a)(2), is liable to the
3 United States for a civil penalty of not more than the
4 greater of—

5 “(A) the value of the property, funds, or monetary
6 instruments involved in the transaction; or

7 “(B) \$10,000.

8 “(2) JURISDICTION OVER FOREIGN PERSONS.—For pur-
9 poses of adjudicating an action filed or enforcing a penalty
10 ordered under this section, the district courts shall have ju-
11 risdiction over any foreign person, including any financial
12 institution authorized under the laws of a foreign country,
13 against whom the action is brought, if service of process
14 upon the foreign person is made under the Federal Rules
15 of Civil Procedure or the laws of the country in which the
16 foreign person is found, and—

17 “(A) the foreign person commits an offense under
18 subsection (a) involving a financial transaction that oc-
19 curs in whole or in part in the United States;

20 “(B) the foreign person converts, to his or her own
21 use, property in which the United States has an owner-
22 ship interest by virtue of the entry of an order of for-
23 feiture by a court of the United States; or

24 “(C) the foreign person is a financial institution that
25 maintains a bank account at a financial institution in
26 the United States.

27 “(3) COURT AUTHORITY OVER ASSETS.—A court may
28 issue a pretrial restraining order or take any other action
29 necessary to ensure that any bank account or other prop-
30 erty held by the defendant in the United States is available
31 to satisfy a judgment under this section.

32 “(4) FEDERAL RECEIVER.—

33 “(A) IN GENERAL.—A court may appoint a Federal
34 Receiver, in accordance with subparagraph (B) of this
35 paragraph, to collect, marshal, and take custody, con-
36 trol, and possession of all assets of the defendant,
37 wherever located, to satisfy a civil judgment under this

1 subsection, a forfeiture judgment under section 981 or
2 982, or a criminal sentence under section 1957 or sub-
3 section (a) of this section, including an order of restitu-
4 tion to any victim of a specified unlawful activity.

5 “(B) APPOINTMENT AND AUTHORITY.—A Federal
6 Receiver described in subparagraph (A)—

7 “(i) may be appointed upon application of a Fed-
8 eral prosecutor or a Federal or State regulator, by
9 the court having jurisdiction over the defendant in
10 the case;

11 “(ii) shall be an officer of the court, and the
12 powers of the Federal Receiver shall include the
13 powers set out in section 754 of title 28, United
14 States Code; and

15 “(iii) shall have standing equivalent to that of a
16 Federal prosecutor for the purpose of submitting
17 requests to obtain information regarding the assets
18 of the defendant—

19 “(I) from the Financial Crimes Enforcement
20 Network of the Department of the Treasury; or

21 “(II) from a foreign country pursuant to a
22 mutual legal assistance treaty, multilateral
23 agreement, or other arrangement for inter-
24 national law enforcement assistance, provided
25 that such requests are in accordance with the
26 policies and procedures of the Attorney Gen-
27 eral.

28 “(c) DEFINITIONS.—As used in this section—

29 “(1) the term ‘knowing that the property involved in a
30 financial transaction represents the proceeds of some form
31 of unlawful activity’ means that the person knew the prop-
32 erty involved in the transaction represented proceeds from
33 some form, though not necessarily which form, of activity
34 that constitutes a felony under State, Federal, or foreign
35 law, regardless of whether or not such activity is specified
36 in paragraph (7);

1 “(2) the term ‘conducts’ includes initiating, concluding,
2 or participating in initiating, or concluding a transaction;

3 “(3) the term ‘transaction’ includes a purchase, sale,
4 loan, pledge, gift, transfer, delivery, or other disposition,
5 and with respect to a financial institution includes a de-
6 posit, withdrawal, transfer between accounts, exchange of
7 currency, loan, extension of credit, purchase or sale of any
8 stock, bond, certificate of deposit, or other monetary instru-
9 ment, use of a safe deposit box, or any other payment,
10 transfer, or delivery by, through, or to a financial institu-
11 tion, by whatever means effected;

12 “(4) the term ‘financial transaction’ means (A) a trans-
13 action which in any way or degree affects interstate or for-
14 eign commerce (i) involving the movement of funds by wire
15 or other means or (ii) involving one or more monetary in-
16 struments, or (iii) involving the transfer of title to any real
17 property, vehicle, vessel, or aircraft, or (B) a transaction
18 involving the use of a financial institution which is engaged
19 in, or the activities of which affect, interstate or foreign
20 commerce in any way or degree;

21 “(5) the term ‘monetary instruments’ means (i) coin or
22 currency of the United States or of any other country, trav-
23 elers’ checks, personal checks, bank checks, and money or-
24 ders, or (ii) investment securities or negotiable instruments,
25 in bearer form or otherwise in such form that title thereto
26 passes upon delivery;

27 “(6) the term ‘financial institution’ means—

28 “(A) any financial institution, as defined in section
29 5312(a)(2) of title 31, or regulations under such sec-
30 tion; or

31 “(B) any foreign bank, as defined in section 1 of the
32 International Banking Act of 1978 (12 U.S.C. 3101);

33 “(7) the term ‘specified unlawful activity’ means—

34 “(A) any act or activity constituting an offense listed
35 in section 511(1) of this title except an act which is in-
36 dictable under subchapter II of chapter 53 of title 31;

1 “(B) with respect to a financial transaction occur-
2 ring in whole or in part in the United States, an of-
3 fense against a foreign nation involving—

4 “(i) the manufacture, importation, sale, or dis-
5 tribution of a controlled substance (as such term is
6 defined for the purposes of the Controlled Sub-
7 stances Act);

8 “(ii) murder, kidnapping, robbery, extortion, de-
9 struction of property by means of explosive or fire,
10 or a crime of violence;

11 “(iii) fraud, or any scheme or attempt to de-
12 fraud, by or against a foreign bank (as defined in
13 paragraph 7 of section 1(b) of the International
14 Banking Act of 1978));

15 “(iv) bribery of a public official, or the misappro-
16 priation, theft, or embezzlement of public funds by
17 or for the benefit of a public official;

18 “(v) smuggling or export control violations in-
19 volving—

20 “(I) an item controlled on the United States
21 Munitions List established under section 38 of
22 the Arms Export Control Act (22 U.S.C.
23 2778); or

24 “(II) an item controlled under regulations
25 under the Export Administration Regulations
26 (15 C.F.R. Parts 730–774); or

27 “(vi) an offense with respect to which the United
28 States would be obligated by a multilateral treaty,
29 either to extradite the alleged offender or to submit
30 the case for prosecution, if the offender were found
31 within the territory of the United States; or

32 “(vii) trafficking in persons, selling or buying of
33 children, sexual exploration or children, or trans-
34 porting, recruiting or harboring a person, including
35 a child, for commercial sex acts;

36 “(C) any act or acts constituting a continuing crimi-
37 nal enterprise, as that term is defined in section 413;

1 “(D) an offense under section 1301 (relating to the
2 destruction of aircraft), section 1306 (relating to vio-
3 lence at international airports), section 102 (relating
4 murder), section 871 (relating to concealment of assets;
5 false oaths and claims; bribery), section 624 (relating
6 to the variola virus), section 1003 (relating to commis-
7 sions or gifts for procuring loans), section 102(7) (re-
8 lating to congressional or Cabinet officer assassina-
9 tion), any of sections 711 through 712 (relating to cer-
10 tain counterfeiting offenses), section 718 (relating to
11 securities of States and private entities), section 861
12 (relating to goods falsely classified), section 862 relat-
13 ing to entry of goods by means of false statements),
14 section 863 (relating to smuggling goods into the
15 United States), section 865 (relating to removing goods
16 from Customs custody), section 867 (relating to smug-
17 gling goods from the United States), section 641 (relat-
18 ing to public money, property, or records), section 644
19 (relating to theft, embezzlement, or misapplication by
20 bank officer or employee), section 645 (relating to lend-
21 ing, credit, and insurance institutions), section 646 (re-
22 lating to property mortgaged or pledged to farm credit
23 agencies), section 654 (relating to theft or bribery con-
24 cerning programs receiving Federal funds), section 301,
25 302, or 303 (relating to espionage), section 601 (relat-
26 ing to prohibited transactions involving nuclear mate-
27 rials), section 614 (f) or (i) (relating to destruction by
28 explosives or fire of Government property or property
29 affecting interstate or foreign commerce), section 144
30 (relating to interstate communications), section 582(1)
31 (relating to the unlawful importation of firearms), sec-
32 tion 584(n) (relating to firearms trafficking), section
33 955 (relating to conspiracy to kill, kidnap, maim, or in-
34 jure certain property in a foreign country), section 773
35 (relating to fraudulent bank entries), section 774 (re-
36 lating to fraudulent Federal credit institution entries),
37 section 775 (relating to Federal Deposit Insurance

1 transactions), section 779 (relating to fraudulent loan
2 or credit applications), section 787 (relating to com-
3 puter fraud and abuse), section 789 (relating to con-
4 cealment of assets from conservator, receiver, or liqui-
5 dating agent of financial institution), section 121 (re-
6 lating to kidnaping), section 123 (relating to hostage
7 taking), section 1201 (relating to willful injury of Gov-
8 ernment property), section 1203 (relating to destruc-
9 tion of property within the special maritime and terri-
10 torial jurisdiction), section 847 (theft from the mail),
11 section 143 (relating to bank robbery), section 1351
12 (relating to violence against maritime navigation), sec-
13 tion 676 (relating to copyright infringement), section
14 680 (relating to trafficking in counterfeit goods and
15 services), section 271 (relating to use of weapons of
16 mass destruction), section 273 (relating to inter-
17 national terrorist acts transcending national bound-
18 aries), section 274 (relating to missile systems designed
19 to destroy aircraft), section 275 (relating to radio-
20 logical dispersal devices), section 278 or 279 (relating
21 to providing material support to terrorists) section 280
22 (relating to prohibitions against the financing of ter-
23 rorism), or section 281 (relating to receiving military-
24 type training from a foreign terrorist) of this title, sec-
25 tion 46502 of title 49, United States Code, a felony
26 violation of the Chemical Diversion and Trafficking Act
27 of 1988 (relating to precursor and essential chemicals),
28 section 590 of the Tariff Act of 1930 (19 U.S.C. 1590)
29 (relating to aviation smuggling), section 422 of the
30 Controlled Substances Act (relating to transportation
31 of drug paraphernalia), section 38(c) (relating to crimi-
32 nal violations) of the Arms Export Control Act, section
33 11 (relating to violations) of the Export Administration
34 Act of 1979, section 206 (relating to penalties) of the
35 International Emergency Economic Powers Act, section
36 16 (relating to offenses and punishment) of the Trad-
37 ing with the Enemy Act, any felony violation of section

1 15 of the Food Stamp Act of 1977 (relating to food
2 stamp fraud) involving a quantity of coupons having a
3 value of not less than \$5,000, any violation of section
4 543(a)(1) of the Housing Act of 1949 (relating to eq-
5 uity skimming), any felony violation of the Foreign
6 Agents Registration Act of 1938, any felony violation
7 of the Foreign Corrupt Practices Act, or section 92 of
8 the Atomic Energy Act of 1954 (42 U.S.C. 2122) (re-
9 lating to prohibitions governing atomic weapons);

10 “(E) a felony violation of the Federal Water Pollu-
11 tion Control Act (33 U.S.C. 1251 et seq.), the Ocean
12 Dumping Act (33 U.S.C. 1401 et seq.), the Act to Pre-
13 vent Pollution from Ships (33 U.S.C. 1901 et seq.), the
14 Safe Drinking Water Act (42 U.S.C. 300f et seq.), or
15 the Resources Conservation and Recovery Act (42
16 U.S.C. 6901 et seq.); or

17 “(F) any act or activity constituting an offense in-
18 volving a Federal health care offense; and

19 “(8) the term ‘State’ includes a State of the United
20 States, the District of Columbia, and any commonwealth,
21 territory, or possession of the United States.

22 “(d) NONEXCLUSIVITY.—Nothing in this section shall super-
23 sede any provision of Federal, State, or other law imposing
24 criminal penalties or affording civil remedies in addition to
25 those provided for in this section.

26 “(e) INVESTIGATIVE AUTHORITY.—Violations of this section
27 may be investigated by such components of the Department of
28 Justice as the Attorney General may direct, and by such com-
29 ponents of the Department of the Treasury as the Secretary of
30 the Treasury may direct, as appropriate, and, with respect to
31 offenses over which the Department of Homeland Security has
32 jurisdiction, by such components of the Department of Home-
33 land Security as the Secretary of Homeland Security may di-
34 rect, and, with respect to offenses over which the United States
35 Postal Service has jurisdiction, by the Postal Service. Such au-
36 thority of the Secretary of the Treasury, the Secretary of
37 Homeland Security, and the Postal Service shall be exercised

1 in accordance with an agreement which shall be entered into
2 by the Secretary of the Treasury, the Secretary of Homeland
3 Security, the Postal Service, and the Attorney General. Viola-
4 tions of this section involving offenses described in paragraph
5 (c)(7)(E) may be investigated by such components of the De-
6 partment of Justice as the Attorney General may direct, and
7 the National Enforcement Investigations Center of the Envi-
8 ronmental Protection Agency.

9 “(f) EXTRATERRITORIAL JURISDICTION.—There is
10 extraterritorial jurisdiction over the conduct prohibited by this
11 section if—

12 “(1) the conduct is by a United States citizen or, in the
13 case of a non-United States citizen, the conduct occurs in
14 part in the United States; and

15 “(2) the transaction or series of related transactions in-
16 volves funds or monetary instruments of a value exceeding
17 \$10,000.

18 “(g) NOTICE OF CONVICTION OF FINANCIAL INSTITU-
19 TIONS.—If any financial institution or any officer, director, or
20 employee of any financial institution has been found guilty of
21 an offense under this section, section 1452 or 508, or section
22 5322 or 5324 of title 31, the Attorney General shall provide
23 written notice of such fact to the appropriate regulatory agency
24 for the financial institution.

25 “(h) VENUE.—(1) Except as provided in paragraph (2), a
26 prosecution for an offense under this section or section 1452
27 may be brought in—

28 “(A) any district in which the financial or monetary
29 transaction is conducted; or

30 “(B) any district where a prosecution for the underlying
31 specified unlawful activity could be brought, if the defend-
32 ant participated in the transfer of the proceeds of the spec-
33 ified unlawful activity from that district to the district
34 where the financial or monetary transaction is conducted.

35 “(2) A prosecution for an attempt or conspiracy offense
36 under this section or section 1957 may be brought in the dis-
37 trict where venue would lie for the completed offense under

1 paragraph (1), or in any other district where an act in further-
2 ance of the attempt or conspiracy took place.

3 “(3) For purposes of this section, a transfer of funds from
4 1 place to another, by wire or any other means, shall constitute
5 a single, continuing transaction. Any person who conducts (as
6 that term is defined in subsection (c)(2)) any portion of the
7 transaction may be charged in any district in which the trans-
8 action takes place.

9 **“§ 1452. Engaging in monetary transactions in**
10 **property derived from specified unlawful**
11 **activity**

12 “(a) ELEMENTS OF OFFENSE.—Whoever, as made applicable
13 by subsection (d), knowingly engages or attempts to engage in
14 a monetary transaction in criminally derived property of a
15 value greater than \$10,000 and is derived from specified un-
16 lawful activity, shall be punished as provided in subsection (b).

17 “(b) PUNISHMENT.—(1) Except as provided in paragraph
18 (2), the punishment for an offense under this section is impris-
19 onment for not more than ten years.

20 “(2) The court may impose an alternate fine to that
21 imposable under paragraph (1) of not more than twice the
22 amount of the criminally derived property involved in the trans-
23 action.

24 “(c) PROOF.—In a prosecution for an offense under this sec-
25 tion, the Government is not required to prove the defendant
26 knew that the offense from which the criminally derived prop-
27 erty was derived was specified unlawful activity.

28 “(d) APPLICABILITY.—Subsection (a) applies if—

29 “(1) that the offense under this section takes place in
30 the United States or in the special maritime and territorial
31 jurisdiction of the United States; or

32 “(2) that the offense under this section takes place out-
33 side the United States and such special jurisdiction, but the
34 defendant is a United States person (as defined in section
35 3077 of this title, but excluding the class described in para-
36 graph (2)(D) of such section).

1 “(e) INVESTIGATIVE AUTHORITY.—Violations of this section
2 may be investigated by such components of the Department of
3 Justice as the Attorney General may direct, and by such com-
4 ponents of the Department of the Treasury as the Secretary of
5 the Treasury may direct, as appropriate, and, with respect to
6 offenses over which the Department of Homeland Security has
7 jurisdiction, by such components of the Department of Home-
8 land Security as the Secretary of Homeland Security may di-
9 rect, and, with respect to offenses over which the United States
10 Postal Service has jurisdiction, by the Postal Service. Such au-
11 thority of the Secretary of the Treasury, the Secretary of
12 Homeland Security, and the Postal Service shall be exercised
13 in accordance with an agreement which shall be entered into
14 by the Secretary of the Treasury, the Secretary of Homeland
15 Security, the Postal Service, and the Attorney General.

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

17 “(1) the term ‘monetary transaction’ means the deposit,
18 withdrawal, transfer, or exchange, in or affecting interstate
19 or foreign commerce, of funds or a monetary instrument
20 (as defined in section 1451(c)(5) of this title) by, through,
21 or to a financial institution (as defined in section 1451 of
22 this title), including any transaction that would be a finan-
23 cial transaction under section 1451(c)(4)(B) of this title,
24 but such term does not include any transaction necessary
25 to preserve a person’s right to representation as guaranteed
26 by the sixth amendment to the Constitution;

27 “(2) the term ‘criminally derived property’ means any
28 property constituting, or derived from, proceeds obtained
29 from a criminal offense; and

30 “(3) the term ‘specified unlawful activity’ has the mean-
31 ing given that term in section 1451 of this title.

32 **“§ 1453. Structuring transactions to evade report-**
33 **ing requirement prohibited**

34 “(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS IN-
35 VOLVING FINANCIAL INSTITUTIONS.—No person shall, for the
36 purpose of evading the reporting requirements of section
37 5313(a) or 5325 of title 31 or any regulation prescribed under

1 any such section, the reporting or recordkeeping requirements
2 imposed by any order issued under section 5326 of that title,
3 or the recordkeeping requirements imposed by any regulation
4 prescribed under section 21 of the Federal Deposit Insurance
5 Act or section 123 of Public Law 91–508—

6 “(1) cause or attempt to cause a domestic financial insti-
7 tution to fail to file a report required under section 5313(a)
8 or 5325 of title 31 or any regulation prescribed under any
9 such section, to file a report or to maintain a record re-
10 quired by an order issued under section 5326 of title 31,
11 or to maintain a record required pursuant to any regulation
12 prescribed under section 21 of the Federal Deposit Insur-
13 ance Act or section 123 of Public Law 91–508;

14 “(2) cause or attempt to cause a domestic financial insti-
15 tution to file a report required under section 5313(a) or
16 5325 of title 31 or any regulation prescribed under any
17 such section, to file a report or to maintain a record re-
18 quired by any order issued under section 5326 of title 31,
19 or to maintain a record required pursuant to any regulation
20 prescribed under section 5326 of title 31, or to maintain
21 a record required pursuant to any regulation prescribed
22 under section 21 of the Federal Deposit Insurance Act or
23 section 123 of Public Law 91–508, that contains a material
24 omission or misstatement of fact; or

25 “(3) structure or assist in structuring, or attempt to
26 structure or assist in structuring, any transaction with one
27 or more domestic financial institutions.

28 “(b) DOMESTIC COIN AND CURRENCY TRANSACTIONS IN-
29 VOLVING NONFINANCIAL TRADES OR BUSINESSES.—No person
30 shall, for the purpose of evading the report requirements of sec-
31 tion 5331 of title 31 or any regulation prescribed under such
32 section—

33 “(1) cause or attempt to cause a nonfinancial trade or
34 business to fail to file a report required under section 5331
35 of title 31 or any regulation prescribed under such section;

36 “(2) cause or attempt to cause a nonfinancial trade or
37 business to file a report required under section 5331 of

1 title 31 or any regulation prescribed under such section
 2 that contains a material omission or misstatement of fact;
 3 or

4 “(3) structure or assist in structuring, or attempt to
 5 structure or assist in structuring, any transaction with 1
 6 or more nonfinancial trades or businesses.

7 “(c) INTERNATIONAL MONETARY INSTRUMENT TRANS-
 8 ACTIONS.—No person shall, for the purpose of evading the re-
 9 porting requirements of section 5316 of title 31—

10 “(1) fail to file a report required by section 5316 of title
 11 31, or cause or attempt to cause a person to fail to file
 12 such a report;

13 “(2) file or cause or attempt to cause a person to file
 14 a report required under section 5316 of title 31 that con-
 15 tains a material omission or misstatement of fact; or

16 “(3) structure or assist in structuring, or attempt to
 17 structure or assist in structuring, any importation or expor-
 18 tation of monetary instruments.

19 “(d) CRIMINAL PENALTY.—

20 “(1) IN GENERAL.—Whoever violates this section shall
 21 be imprisoned for not more than 5 years.

22 “(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—
 23 Whoever violates this section while violating another law of
 24 the United States or as part of a pattern of any illegal ac-
 25 tivity involving more than \$100,000 in a 12-month period
 26 shall be imprisoned for not more than 10 years.

27 **“§ 1454. Bulk cash smuggling into or out of the**
 28 **United States**

29 “(a) CRIMINAL OFFENSE.—

30 “(1) IN GENERAL.—Whoever, with the intent to evade a
 31 currency reporting requirement under section 5316 of title
 32 31, knowingly conceals more than \$10,000 in currency or
 33 other monetary instruments on the person of such indi-
 34 vidual or in any conveyance, article of luggage, merchan-
 35 dise, or other container, and transports or transfers or at-
 36 tempts to transport or transfer such currency or monetary
 37 instruments from a place within the United States to a

1 place outside of the United States, or from a place outside
2 the United States to a place within the United States, shall
3 be guilty of a currency smuggling offense and subject to
4 punishment pursuant to subsection (b).

5 “(2) CONCEALMENT ON PERSON.—For purposes of this
6 section, the concealment of currency on the person of any
7 individual includes concealment in any article of clothing
8 worn by the individual or in any luggage, backpack, or
9 other container worn or carried by such individual.

10 “(b) PENALTY.—

11 “(1) TERM OF IMPRISONMENT.—A person convicted of a
12 currency smuggling offense under subsection (a), or a con-
13 spiracy to commit such offense, shall be imprisoned for not
14 more than 5 years.

15 “(2) FORFEITURE.—In addition, the court, in imposing
16 sentence under paragraph (1), shall order that the defend-
17 ant forfeit to the United States, any property, real or per-
18 sonal, involved in the offense, and any property traceable
19 to such property, subject to subsection (c) of this section.

20 “(3) PROCEDURE.—The seizure, restraint, and forfeiture
21 of property under this section shall be governed by section
22 413 of the Controlled Substances Act.

23 “(4) PERSONAL MONEY JUDGMENT.—If the property
24 subject to forfeiture under paragraph (2) is unavailable,
25 and the defendant has insufficient substitute property that
26 may be forfeited under section 2561, the court shall enter
27 a personal money judgment against the defendant for the
28 amount that would be subject to forfeiture.

29 “(c) CIVIL FORFEITURE.—

30 “(1) IN GENERAL.—Any property involved in a violation
31 of subsection (a), or a conspiracy to commit such violation,
32 and any property traceable to such violation or conspiracy,
33 may be seized and forfeited to the United States.

34 “(2) TREATMENT OF CERTAIN PROPERTY AS INVOLVED
35 IN THE OFFENSE.—For purposes of this subsection and
36 subsection (b), any currency or other monetary instrument
37 that is concealed or intended to be concealed in violation

1 of subsection (a), any article, container, or conveyance
 2 used, or intended to be used, to conceal or transport the
 3 currency or other monetary instrument, and any other
 4 property used, or intended to be used, to facilitate the of-
 5 fense, shall be considered property involved in the offense.

6 **“CHAPTER 37—PRIVACY**

| | |
|--|-------------|
| “Subchapter | Sec. |
| “A. Privacy | 1481 |
| “B. Wire and electronic communications interception and interception of oral communications | 1491 |
| “C. Stored wire and electronic communications and transactional records access | 1521 |
| “D. Prohibition on release and use of certain per- sonal information from State motor vehicle records | 1541 |
| “E. Identity theft | 1551 |

7 **“SUBCHAPTER A—PRIVACY**

“Sec.
 “1481. Video voyeurism.

8 **“§ 1481. Video voyeurism**

9 “(a) OFFENSE.—Whoever, in the special maritime and terri-
 10 torial jurisdiction of the United States, has the intent to cap-
 11 ture an image of a private area of an individual without their
 12 consent, and knowingly does so under circumstances in which
 13 the individual has a reasonable expectation of privacy, shall be
 14 imprisoned not more than one year.

15 “(b) DEFINITIONS FOR SECTION.—As used in this section—

16 “(1) the term ‘capture’, with respect to an image, means
 17 to videotape, photograph, film, record by any means, or
 18 broadcast;

19 “(2) the term ‘broadcast’ means to electronically trans-
 20 mit a visual image with the intent that it be viewed by a
 21 person or persons;

22 “(3) the term ‘a private area of the individual’ means the
 23 naked or undergarment clad genitals, pubic area, buttocks,
 24 or female breast of that individual;

25 “(4) the term ‘female breast’ means any portion of the
 26 female breast below the top of the areola; and

27 “(5) the term ‘under circumstances in which that indi-
 28 vidual has a reasonable expectation of privacy’ means—

1 “(A) circumstances in which a reasonable person
2 would believe that he or she could disrobe in privacy,
3 without being concerned that an image of a private
4 area of the individual was being captured; or

5 “(B) circumstances in which a reasonable person
6 would believe that a private area of the individual
7 would not be visible to the public, regardless of whether
8 that person is in a public or private place.

9 “(c) EXCLUSION.—This section does not prohibit any lawful
10 law enforcement, correctional, or intelligence activity.

11 “SUBCHAPTER B—WIRE AND ELECTRONIC COMMU-
12 NICATIONS INTERCEPTION AND INTERCEPTION
13 OF ORAL COMMUNICATIONS

“Sec.

“1491. Definitions.

“1492. Interception and disclosure of wire, oral, or electronic communica-
tions prohibited.

“1493. Manufacture, distribution, possession, and advertising of wire, oral,
or electronic communication intercepting devices prohibited.

“1494. Confiscation of wire, oral, or electronic communication intercepting
devices.

“1495. Prohibition of use as evidence of intercepted wire or oral commu-
nications.

“1496. Authorization for interception of wire, oral, or electronic commu-
nications.

“1497. Authorization for disclosure and use of intercepted wire, oral, or
electronic communications.

“1498. Procedure for interception of wire, oral, or electronic communica-
tions.

“1499. Reports concerning intercepted wire, oral, or electronic communica-
tions.

“1500. Recovery of civil damages authorized.

“1501. Injunction against illegal interception.

“1502. Enforcement of the Communications Assistance for Law Enforce-
ment Act.

14 “§ 1491. Definitions

15 “As used in this subchapter—

16 “(1) the term ‘wire communication’ means any aural
17 transfer made in whole or in part through the use of facili-
18 ties for the transmission of communications by the aid of
19 wire, cable, or other like connection between the point of
20 origin and the point of reception (including the use of such
21 connection in a switching station) furnished or operated by
22 any person engaged in providing or operating such facilities

1 for the transmission of interstate or foreign communica-
2 tions or communications affecting interstate or foreign
3 commerce;

4 “(2) the term ‘oral communication’ means any oral com-
5 munication uttered by a person exhibiting an expectation
6 that such communication is not subject to interception
7 under circumstances justifying such expectation, but such
8 term does not include any electronic communication;

9 “(3) the term ‘intercept’ means the aural or other acqui-
10 sition of the contents of any wire, electronic, or oral com-
11 munication through the use of any electronic, mechanical,
12 or other device;

13 “(4) the term ‘electronic, mechanical, or other device’
14 means any device or apparatus which can be used to inter-
15 cept a wire, oral, or electronic communication other than—

16 “(A) any telephone or telegraph instrument, equip-
17 ment or facility, or any component thereof, (i) fur-
18 nished to the subscriber or user by a provider of wire
19 or electronic communication service in the ordinary
20 course of its business and being used by the subscriber
21 or user in the ordinary course of its business or fur-
22 nished by such subscriber or user for connection to the
23 facilities of such service and used in the ordinary
24 course of its business; or (ii) being used by a provider
25 of wire or electronic communication service in the ordi-
26 nary course of its business, or by an investigative or
27 law enforcement officer in the ordinary course of his
28 duties;

29 “(B) a hearing aid or similar device being used to
30 correct subnormal hearing to not better than normal;

31 “(5) the term ‘Investigative or law enforcement officer’
32 means any officer of the United States or of a State or po-
33 litical subdivision thereof, who is empowered by law to con-
34 duct investigations of or to make arrests for offenses enu-
35 merated in this chapter, and any attorney authorized by
36 law to prosecute or participate in the prosecution of such
37 offenses;

1 “(6) the term ‘contents’, when used with respect to any
2 wire, oral, or electronic communication, includes any infor-
3 mation concerning the substance, purport, or meaning of
4 that communication;

5 “(7) the term ‘Judge of competent jurisdiction’ means—

6 “(A) a judge of a United States district court or a
7 United States court of appeals; and

8 “(B) a judge of any court of general criminal juris-
9 diction of a State who is authorized by a statute of that
10 State to enter orders authorizing interceptions of wire,
11 oral, or electronic communications;

12 “(8) the term ‘communication common carrier’ has the
13 meaning given that term in section 3 of the Communica-
14 tions Act of 1934;

15 “(9) the term ‘aggrieved person’ means a person who
16 was a party to any intercepted wire, oral, or electronic com-
17 munication or a person against whom the interception was
18 directed;

19 “(10) the term ‘electronic communication’ means any
20 transfer of signs, signals, writing, images, sounds, data, or
21 intelligence of any nature transmitted in whole or in part
22 by a wire, radio, electromagnetic, photoelectronic or
23 photooptical system that affects interstate or foreign com-
24 merce, but does not include—

25 “(A) any wire or oral communication;

26 “(B) any communication made through a tone-only
27 paging device;

28 “(C) any communication from a tracking device (as
29 defined in section 3117 of this title); or

30 “(D) electronic funds transfer information stored by
31 a financial institution in a communications system used
32 for the electronic storage and transfer of funds;

33 “(11) the term ‘user’ means any person or entity who—

34 “(A) uses an electronic communication service; and

35 “(B) is duly authorized by the provider of such serv-
36 ice to engage in such use;

1 “(12) the term ‘electronic communications system’
2 means any wire, radio, electromagnetic, photooptical or
3 photoelectronic facilities for the transmission of wire or
4 electronic communications, and any computer facilities or
5 related electronic equipment for the electronic storage of
6 such communications;

7 “(13) the term ‘electronic communication service’ means
8 any service which provides to users thereof the ability to
9 send or receive wire or electronic communications;

10 “(14) the term ‘readily accessible to the general public’
11 means, with respect to a radio communication, that such
12 communication is not—

13 “(A) scrambled or encrypted;

14 “(B) transmitted using modulation techniques whose
15 essential parameters have been withheld from the pub-
16 lic with the intention of preserving the privacy of such
17 communication;

18 “(C) carried on a subcarrier or other signal sub-
19 sidiary to a radio transmission;

20 “(D) transmitted over a communication system pro-
21 vided by a common carrier, unless the communication
22 is a tone only paging system communication; or

23 “(E) transmitted on frequencies allocated under part
24 25, subpart D, E, or F of part 74, or part 94 of the
25 Rules of the Federal Communications Commission, un-
26 less, in the case of a communication transmitted on a
27 frequency allocated under part 74 that is not exclu-
28 sively allocated to broadcast auxiliary services, the com-
29 munication is a two-way voice communication by radio;

30 “(15) the term ‘electronic storage’ means—

31 “(A) any temporary, intermediate storage of a wire
32 or electronic communication incidental to the electronic
33 transmission thereof; and

34 “(B) any storage of such communication by an elec-
35 tronic communication service for purposes of backup
36 protection of such communication;

1 “(16) the term ‘aural transfer’ means a transfer con-
2 taining the human voice at any point between and includ-
3 ing the point of origin and the point of reception;

4 “(17) the term ‘foreign intelligence information’, for pur-
5 poses of section 1497(6), means—

6 “(A) information, whether or not concerning a
7 United States person, that relates to the ability of the
8 United States to protect against—

9 “(i) actual or potential attack or other grave hos-
10 tile acts of a foreign power or an agent of a foreign
11 power;

12 “(ii) sabotage or international terrorism by a for-
13 eign power or an agent of a foreign power; or

14 “(iii) clandestine intelligence activities by an in-
15 telligence service or network of a foreign power or
16 by an agent of a foreign power; or

17 “(B) information, whether or not concerning a
18 United States person, with respect to a foreign power
19 or foreign territory that relates to—

20 “(i) the national defense or the security of the
21 United States; or

22 “(ii) the conduct of the foreign affairs of the
23 United States;

24 “(18) the term ‘protected computer’ has the meaning set
25 forth in section 1030; and

26 “(19) the term ‘computer trespasser’—

27 “(A) means a person who accesses a protected com-
28 puter without authorization and thus has no reasonable
29 expectation of privacy in any communication trans-
30 mitted to, through, or from the protected computer;
31 and

32 “(B) does not include a person known by the owner
33 or operator of the protected computer to have an exist-
34 ing contractual relationship with the owner or operator
35 of the protected computer for access to all or part of
36 the protected computer.

1 **“§ 1492. Interception and disclosure of wire, oral,**
2 **or electronic communications prohibited**

3 “(a) OFFENSE.—Except as otherwise specifically provided in
4 this subchapter any person who—

5 “(1) intentionally intercepts, endeavors to intercept, or
6 procures any other person to intercept or endeavor to inter-
7 cept, any wire, oral, or electronic communication;

8 “(2) intentionally uses, endeavors to use, or procures any
9 other person to use or endeavor to use any electronic, me-
10 chanical, or other device to intercept any oral communica-
11 tion when—

12 “(A) such device is affixed to, or otherwise transmits
13 a signal through, a wire, cable, or other like connection
14 used in wire communication;

15 “(B) such device transmits communications by radio,
16 or interferes with the transmission of such communica-
17 tion;

18 “(C) such person knows, or has reason to know, that
19 such device or any component thereof has been sent
20 through the mail or transported in interstate or foreign
21 commerce;

22 “(D) such use or endeavor to use (i) takes place on
23 the premises of any business or other commercial es-
24 tablishment the operations of which affect interstate or
25 foreign commerce; or (ii) obtains or is for the purpose
26 of obtaining information relating to the operations of
27 any business or other commercial establishment the op-
28 erations of which affect interstate or foreign commerce;
29 or

30 “(E) such person acts in the District of Columbia,
31 the Commonwealth of Puerto Rico, or any territory or
32 possession of the United States;

33 “(3) intentionally discloses, or endeavors to disclose, to
34 any other person the contents of any wire, oral, or elec-
35 tronic communication, knowing or having reason to know
36 that the information was obtained through the interception

1 of a wire, oral, or electronic communication in violation of
2 this subsection;

3 “(4) intentionally uses, or endeavors to use, the contents
4 of any wire, oral, or electronic communication, knowing or
5 having reason to know that the information was obtained
6 through the interception of a wire, oral, or electronic com-
7 munication in violation of this subsection; or

8 “(5)(A) intentionally discloses, or endeavors to disclose,
9 to any other person the contents of any wire, oral, or elec-
10 tronic communication, intercepted by means authorized by
11 sections 1497(2)(A)(ii), 1497(2)(b)–(c), 1492(2)(e), 1496,
12 and 1498 of this subchapter;

13 “(B) knowing or having reason to know that the infor-
14 mation was obtained through the interception of such a
15 communication in connection with a criminal investigation;

16 “(C) having obtained or received the information in con-
17 nection with a criminal investigation; and

18 “(D) with intent to improperly obstruct, impede, or
19 interfere with a duly authorized criminal investigation,
20 shall be punished as provided in subsection (d) or shall be sub-
21 ject to suit as provided in subsection (5).

22 “(b) EXCLUSIONS.—(1)(A) It shall not be unlawful under
23 this subchapter for an operator of a switchboard, or an officer,
24 employee, or agent of a provider of wire or electronic commu-
25 nication service, whose facilities are used in the transmission of
26 a wire or electronic communication, to intercept, disclose, or
27 use that communication in the normal course of his employ-
28 ment while engaged in any activity which is a necessary inci-
29 dent to the rendition of his service or to the protection of the
30 rights or property of the provider of that service, except that
31 a provider of wire communication service to the public shall not
32 utilize service observing or random monitoring except for me-
33 chanical or service quality control checks.

34 “(B) Notwithstanding any other law, providers of wire or
35 electronic communication service, their officers, employees, and
36 agents, landlords, custodians, or other persons, are authorized
37 to provide information, facilities, or technical assistance to per-

1 sons authorized by law to intercept wire, oral, or electronic
2 communications or to conduct electronic surveillance, as defined
3 in section 101 of the Foreign Intelligence Surveillance Act of
4 1978, if such provider, its officers, employees, or agents, land-
5 lord, custodian, or other specified person, has been provided
6 with—

7 “(i) a court order directing such assistance signed by the au-
8 thorizing judge, or

9 “(ii) a certification in writing by a person specified in section
10 2518(7) of this title or the Attorney General of the United
11 States that no warrant or court order is required by law, that
12 all statutory requirements have been met, and that the speci-
13 fied assistance is required,

14 setting forth the period of time during which the provision of
15 the information, facilities, or technical assistance is authorized
16 and specifying the information, facilities, or technical assistance
17 required. No provider of wire or electronic communication serv-
18 ice, officer, employee, or agent thereof, or landlord, custodian,
19 or other specified person shall disclose the existence of any
20 interception or surveillance or the device used to accomplish the
21 interception or surveillance with respect to which the person
22 has been furnished a court order or certification under this
23 subchapter, except as may otherwise be required by legal proc-
24 ess and then only after prior notification to the Attorney Gen-
25 eral or to the principal prosecuting attorney of a State or any
26 political subdivision of a State, as may be appropriate. Any
27 such disclosure, shall render such person liable for the civil
28 damages provided for in section 2520. No cause of action shall
29 lie in any court against any provider of wire or electronic com-
30 munication service, its officers, employees, or agents, landlord,
31 custodian, or other specified person for providing information,
32 facilities, or assistance in accordance with the terms of a court
33 order, statutory authorization, or certification under this sub-
34 chapter.

35 “(2) It shall not be unlawful under this subchapter for an
36 officer, employee, or agent of the Federal Communications
37 Commission, in the normal course of his employment and in

1 discharge of the monitoring responsibilities exercised by the
2 Commission in the enforcement of chapter 5 of title 47 of the
3 United States Code, to intercept a wire or electronic commu-
4 nication, or oral communication transmitted by radio, or to dis-
5 close or use the information thereby obtained.

6 “(3) It shall not be unlawful under this subchapter for a per-
7 son acting under color of law to intercept a wire, oral, or elec-
8 tronic communication, where such person is a party to the com-
9 munication or one of the parties to the communication has
10 given prior consent to such interception.

11 “(4) It shall not be unlawful under this subchapter for a per-
12 son not acting under color of law to intercept a wire, oral, or
13 electronic communication where such person is a party to the
14 communication or where one of the parties to the communica-
15 tion has given prior consent to such interception unless such
16 communication is intercepted for the purpose of committing
17 any criminal or tortious act in violation of the Constitution or
18 laws of the United States or of any State.

19 “(5) Notwithstanding any other provision of this title or sec-
20 tion 705 or 706 of the Communications Act of 1934, it shall
21 not be unlawful for an officer, employee, or agent of the United
22 States in the normal course of his official duty to conduct elec-
23 tronic surveillance, as defined in section 101 of the Foreign In-
24 telligence Surveillance Act of 1978, as authorized by that Act.

25 “(6) Nothing contained in this subchapter or subchapter C
26 if chapter 37, or section 705 of the Communications Act of
27 1934, shall be deemed to affect the acquisition by the United
28 States Government of foreign intelligence information from
29 international or foreign communications, or foreign intelligence
30 activities conducted in accordance with otherwise applicable
31 Federal law involving a foreign electronic communications sys-
32 tem, utilizing a means other than electronic surveillance as de-
33 fined in section 101 of the Foreign Intelligence Surveillance
34 Act of 1978, and procedures in this subchapter or subchapter
35 C if chapter 37 and the Foreign Intelligence Surveillance Act
36 of 1978 shall be the exclusive means by which electronic sur-
37 veillance, as defined in section 101 of such Act, and the inter-

1 ception of domestic wire, oral, and electronic communications
2 may be conducted.

3 “(7) It shall not be unlawful under this subchapter or sub-
4 chapter C if chapter 37 for any person—

5 “(A) to intercept or access an electronic communication
6 made through an electronic communication system that is
7 configured so that such electronic communication is readily
8 accessible to the general public;

9 “(B) to intercept any radio communication which is
10 transmitted—

11 “(i) by any station for the use of the general public,
12 or that relates to ships, aircraft, vehicles, or persons in
13 distress;

14 “(ii) by any governmental, law enforcement, civil de-
15 fense, private land mobile, or public safety communica-
16 tions system, including police and fire, readily acces-
17 sible to the general public;

18 “(iii) by a station operating on an authorized fre-
19 quency within the bands allocated to the amateur, citi-
20 zens band, or general mobile radio services; or

21 “(iv) by any marine or aeronautical communications
22 system;

23 “(C) to engage in any conduct which—

24 “(i) is prohibited by section 633 of the Communica-
25 tions Act of 1934; or

26 “(ii) is excepted from the application of section
27 705(a) of the Communications Act of 1934 by section
28 705(b) of that Act;

29 “(iii) of the Communications Act of 1934 by section
30 705(b) of that Act;

31 “(iv) to intercept any wire or electronic communication
32 the transmission of which is causing harmful interference
33 to any lawfully operating station or consumer electronic
34 equipment, to the extent necessary to identify the source of
35 such interference; or

36 “(v) for other users of the same frequency to intercept
37 any radio communication made through a system that uti-

1 lizes frequencies monitored by individuals engaged in the
2 provision or the use of such system, if such communication
3 is not scrambled or encrypted.

4 “(8) It shall not be unlawful under this subchapter—

5 “(A) to use a pen register or a trap and trace device (as
6 those terms are defined for the purposes of chapter 206
7 (relating to pen registers and trap and trace devices) of
8 this title); or

9 “(B) for a provider of electronic communication service
10 to record the fact that a wire or electronic communication
11 was initiated or completed in order to protect such pro-
12 vider, another provider furnishing service toward the com-
13 pletion of the wire or electronic communication, or a user
14 of that service, from fraudulent, unlawful or abusive use of
15 such service.

16 “(9) It shall not be unlawful under this subchapter for a per-
17 son acting under color of law to intercept the wire or electronic
18 communications of a computer trespasser transmitted to,
19 through, or from the protected computer, if—

20 “(A) the owner or operator of the protected computer
21 authorizes the interception of the computer trespasser’s
22 communications on the protected computer;

23 “(B) the person acting under color of law is lawfully en-
24 gaged in an investigation;

25 “(C) the person acting under color of law has reasonable
26 grounds to believe that the contents of the computer tres-
27 passer’s communications will be relevant to the investiga-
28 tion; and

29 “(D) such interception does not acquire communications
30 other than those transmitted to or from the computer tres-
31 passer.

32 “(c) CONTENTS IN TRANSMISSION.—(1) Except as provided
33 in paragraph (b) of this subsection, a person or entity pro-
34 viding an electronic communication service to the public shall
35 not intentionally divulge the contents of any communication
36 (other than one to such person or entity, or an agent thereof)
37 while in transmission on that service to any person or entity

1 other than an addressee or intended recipient of such commu-
2 nication or an agent of such addressee or intended recipient.

3 “(2) A person or entity providing electronic communication
4 service to the public may divulge the contents of any such com-
5 munication—

6 “(A) as otherwise authorized in section 2511(2)(a) or
7 2517 of this title;

8 “(B) with the lawful consent of the originator or any ad-
9 dressee or intended recipient of such communication;

10 “(C) to a person employed or authorized, or whose facili-
11 ties are used, to forward such communication to its des-
12 tination; or

13 “(D) which were inadvertently obtained by the service
14 provider and which appear to pertain to the commission of
15 a crime, if such divulgence is made to a law enforcement
16 agency.

17 “(d) PUNISHMENT.—(1) Except as provided in paragraph
18 (b) of this subsection or in subsection (5), whoever violates sub-
19 section (1) of this section shall be imprisoned not more than
20 five years.

21 “(2) Conduct otherwise an offense under this subsection that
22 consists of or relates to the interception of a satellite trans-
23 mission that is not encrypted or scrambled and that is trans-
24 mitted—

25 “(A) to a broadcasting station for purposes of retrans-
26 mission to the general public; or

27 “(B) as an audio subcarrier intended for redistribution
28 to facilities open to the public, but not including data
29 transmissions or telephone calls,

30 is not an offense under this subsection unless the conduct is
31 for the purposes of direct or indirect commercial advantage or
32 private financial gain.

33 “(e) CERTAIN COMMUNICATIONS.—(1)(A) If the communica-
34 tion is—

35 “(i) a private satellite video communication that is
36 not scrambled or encrypted and the conduct in violation
37 of this subchapter is the private viewing of that com-

1 munication and is not for a tortious or illegal purpose
2 or for purposes of direct or indirect commercial advan-
3 tage or private commercial gain; or

4 “(ii) a radio communication that is transmitted on
5 frequencies allocated under subpart D of part 74 of the
6 rules of the Federal Communications Commission that
7 is not scrambled or encrypted and the conduct in viola-
8 tion of this subchapter is not for a tortious or illegal
9 purpose or for purposes of direct or indirect commercial
10 advantage or private commercial gain,

11 then the person who engages in such conduct shall be subject
12 to suit by the Federal Government in a court of competent ju-
13 risdiction.

14 “(B) In an action under this subsection—

15 “(i) if the violation of this subchapter is a first offense
16 for the person under paragraph (a) of subsection (4) and
17 such person has not been found liable in a civil action
18 under section 2520 of this title, the Federal Government
19 shall be entitled to appropriate injunctive relief; and

20 “(ii) if the violation of this subchapter is a second or
21 subsequent offense under paragraph (a) of subsection (4)
22 or such person has been found liable in any prior civil ac-
23 tion under section 2520, the person shall be subject to a
24 mandatory \$500 civil fine.

25 “(2) The court may use any means within its authority to
26 enforce an injunction issued under paragraph (ii)(A), and shall
27 impose a civil fine of not less than \$500 for each violation of
28 such an injunction.

29 **“§ 1493. Manufacture, distribution, possession,**
30 **and advertising of wire, oral, or electronic**
31 **communication intercepting devices pro-**
32 **hibited**

33 “(a) OFFENSE.—Except as otherwise specifically provided in
34 this subchapter, any person who intentionally—

35 “(1) sends through the mail, or sends or carries in inter-
36 state or foreign commerce, any electronic, mechanical, or
37 other device, knowing or having reason to know that the

1 design of such device renders it primarily useful for the
2 purpose of the surreptitious interception of wire, oral, or
3 electronic communications;

4 “(2) manufactures, assembles, possesses, or sells any
5 electronic, mechanical, or other device, knowing or having
6 reason to know that the design of such device renders it
7 primarily useful for the purpose of the surreptitious inter-
8 ception of wire, oral, or electronic communications, and
9 that such device or any component thereof has been or will
10 be sent through the mail or transported in interstate or
11 foreign commerce; or

12 “(3) places in any newspaper, magazine, handbill, or
13 other publication or disseminates by electronic means any
14 advertisement of—

15 “(A) any electronic, mechanical, or other device
16 knowing or having reason to know that the design of
17 such device renders it primarily useful for the purpose
18 of the surreptitious interception of wire, oral, or elec-
19 tronic communications; or

20 “(B) any other electronic, mechanical, or other de-
21 vice, where such advertisement promotes the use of
22 such device for the purpose of the surreptitious inter-
23 ception of wire, oral, or electronic communications,
24 knowing the content of the advertisement and knowing or
25 having reason to know that such advertisement will be sent
26 through the mail or transported in interstate or foreign
27 commerce,

28 shall be imprisoned not more than five years.

29 “(b) EXCLUSION.—It shall not be unlawful under this sec-
30 tion for—

31 “(1) a provider of wire or electronic communication serv-
32 ice or an officer, agent, or employee of, or a person under
33 contract with, such a provider, in the normal course of the
34 business of providing that wire or electronic communication
35 service, or

36 “(2) an officer, agent, or employee of, or a person under
37 contract with, the United States, a State, or a political sub-

1 of electronic, mechanical, or other intercepting devices under
 2 this section by such officers, agents, or other persons as may
 3 be authorized or designated for that purpose by the Attorney
 4 General.

5 **“§ 1495. Prohibition of use as evidence of inter-**
 6 **cepted wire or oral communications**

7 “Whenever any wire or oral communication has been inter-
 8 cepted, no part of the contents of such communication and no
 9 evidence derived therefrom may be received in evidence in any
 10 trial, hearing, or other proceeding in or before any court, grand
 11 jury, department, officer, agency, regulatory body, legislative
 12 committee, or other authority of the United States, a State, or
 13 a political subdivision thereof if the disclosure of that informa-
 14 tion would be in violation of this subchapter.

15 **“§ 1496. Authorization for interception of wire,**
 16 **oral, or electronic communications**

17 “(a) FEDERAL PROSECUTORS.—The Attorney General, Dep-
 18 uty Attorney General, Associate Attorney General, or any As-
 19 sistant Attorney General, any acting Assistant Attorney Gen-
 20 eral, or any Deputy Assistant Attorney General or acting Dep-
 21 uty Assistant Attorney General in the Criminal Division spe-
 22 cially designated by the Attorney General, may authorize an
 23 application to a Federal judge of competent jurisdiction for,
 24 and such judge may grant in conformity with section 2518 of
 25 this subchapter an order authorizing or approving the intercep-
 26 tion of wire or oral communications by the Federal Bureau of
 27 Investigation, or a Federal agency having responsibility for the
 28 investigation of the offense as to which the application is made,
 29 when such interception may provide or has provided evidence
 30 of—

31 “(1) any felony offense under sections 271 through 275,
 32 or under any of the following subchapters of this title: sub-
 33 chapter C of chapter 10 (relating to kidnapping), sub-
 34 chapter A of chapter 15 (relating to treason), subchapter
 35 E of chapter 15 (relating to espionage), subchapter E of
 36 chapter 21 (relating to biological weapons), subchapter N
 37 of chapter 29 (relating to malicious mischief), subchapter

1 A of chapter 31 (relating to piracy), or subchapter C of
2 chapter 35 (relating to protection of trade secrets);

3 “(2) a violation of section 186 or section 501(c) of title
4 29, United States Code (dealing with restrictions on pay-
5 ments and loans to labor organizations), or any offense
6 which involves murder, kidnapping, robbery, or extortion,
7 and which is punishable under this title;

8 “(3) any offense which is punishable under the following
9 sections of this title: sections 102, 112, 121, 131 (relating
10 to murder, assault, kidnapping, and threatening or retali-
11 ating against a Federal official), section 123 (relating to
12 hostage taking), , sections 211, 212, 213 and 214 (relating
13 to transportation for illegal sexual activity and related
14 crimes), sections 221 (relating to sexual exploitation of
15 children), section 222 (relating to selling or buying of chil-
16 dren), section 223 (certain activities relating to materials
17 involving the sexual exploitation of children and child por-
18 nography), section 311 (relating to false statements in
19 passport applications), section 312 (relating to forgery or
20 false use of passports), section 313 (relating to misuse of
21 passports), or section 314 (relating to fraud and misuse of
22 visas, permits, and other documents), section 315 (relating
23 to the procurement of citizenship or nationalization unlaw-
24 fully), section 316 (relating to the sale of naturalization or
25 citizenship papers), section 501 (interference with com-
26 merce by threats or violence), section 502 (interstate and
27 foreign travel or transportation in aid of racketeering en-
28 terprises), 504 (offer, acceptance, or solicitation to influ-
29 ence operations of employee benefit plan), section 505 (pro-
30 hibition of business enterprises of gambling), section 506
31 (relating to use of interstate commerce facilities in the com-
32 mission of murder for hire), section 507 (relating to violent
33 crimes in aid of racketeering activity), section section 513
34 (violations with respect to racketeer influenced and corrupt
35 organizations), section 547 (theft from interstate ship-
36 ment), section 571 (relating to arson), section 593 (relating
37 to possession of firearms and dangerous weapons in Federal

1 facilities), section 601 (relating to prohibited transactions
2 involving nuclear materials), subsection (d), (e), (f), (g),
3 (h), or (i) of section 614 (unlawful use of explosives), sec-
4 tion 621 (relating to biological weapons), section 624 (re-
5 lating to variola virus), section 651 (embezzlement from
6 pension and welfare funds), sections 671, 672, 673, and
7 674 (interstate transportation of stolen property), section
8 682 (relating to trafficking in certain motor vehicles or
9 motor vehicle parts), section 779 (relating to loans and
10 credit applications generally; renewals and discounts), a fel-
11 ony violation of section 783 (relating to production of false
12 identification documentation), section 786 (relating to
13 fraud and related activity in connection with access de-
14 vices), a felony violation of section 787 (relating to com-
15 puter fraud and abuse), section 801 (relating to mail
16 fraud), section 803 (fraud by wire, radio, or television), sec-
17 tion 804 (relating to bank fraud), section 924 (relating to
18 conspiracy to kill, kidnap, maim, or injure persons or dam-
19 age property in a foreign), section 991 (bribery of public
20 officials and witnesses), section 1003 (relating to bribery of
21 bank officials), section 1005 (bribery in sporting contests),
22 section 1071 (relating to escape), sections 1132, 1137, and
23 1138 (influencing or injuring an officer, juror, or witness
24 generally), section 1135 (obstruction of criminal investiga-
25 tions), section 1136 (obstruction of State or local law en-
26 forcement), section 1265 (sex trafficking of children by
27 force, fraud, or coercion), section 1291 (relating to tor-
28 ture); section 1301 (relating to destruction of aircraft or
29 aircraft facilities), 1306 (relating to violence at inter-
30 national airports), section 1307 (relating to aircraft parts
31 fraud), section 1302 (relating to destruction of motor vehi-
32 cles or motor vehicle facilities), section 1331 (relating to
33 terrorist attacks and other violence against railroad carriers
34 and against mass transportation systems on land, on water,
35 or through the air), section 1451 (laundering of monetary
36 instruments), section 1452 (relating to engaging in mone-

1 tary transactions in property derived from specified unlaw-
2 ful activity), section 1445 (relating to child obscenity);

3 “(4) any offense involving counterfeiting punishable
4 under section 692, 693, or 694 of this title;

5 “(5) any offense involving fraud connected with a case
6 under title 11 or the manufacture, importation, receiving,
7 concealment, buying, selling, or otherwise dealing in nar-
8 cotic drugs, marihuana, or other dangerous drugs, punish-
9 able under any law of the United States;

10 “(6) any offense including extortionate credit trans-
11 actions under sections 155, 156, or 157 of this title;

12 “(7) a violation of section 5322 (relating to the reporting
13 of currency transactions) or 5324 (relating to structuring
14 transactions to evade reporting requirement prohibited) of
15 title 31, United States Code ;

16 “(8) any felony violation of sections 1492 and 1493 (re-
17 lating to interception and disclosure of certain communica-
18 tions and to certain intercepting devices) of this title;

19 “(9) any felony violation of subchapter F of chapter 35
20 (relating to obscenity) of this title;

21 “(10) any violation of section 60123(b) (relating to de-
22 struction of a natural gas pipeline) or section 46502 (relat-
23 ing to aircraft piracy), the second sentence of section
24 46504 (relating to assault on a flight crew with dangerous
25 weapon), section 46505(b)(3) or (c) (relating to explosive
26 or incendiary devices, or endangerment of human life, by
27 means of weapons on aircraft) of title 49;

28 “(11) any criminal violation of section 2778 of title 22
29 (relating to the Arms Export Control Act);

30 “(12) the location of any fugitive from justice from an
31 offense described in this section;

32 “(13) the location of any fugitive from justice from an
33 offense described in this section;

34 “(14) a violation of section 274, 277, or 278 of the Im-
35 migration and Nationality Act (8 U.S.C. 1324, 1327, or
36 1328) (relating to the smuggling of aliens);

37 “(15) any felony violation of sections 582 and 584;

1 “(16) any violation of section 5861 of the Internal Rev-
2 enue Code of 1986 (relating to firearms);

3 “(17) a felony violation of section 783 (relating to pro-
4 duction of false identification documents), section 784 (re-
5 lating to aggravated identity theft), section 311 (relating to
6 false statements in passport applications), section 314 (re-
7 lating to fraud and misuse of visas, permits, and other doc-
8 uments) of this title or a violation of section 274, 277, or
9 278 of the Immigration and Nationality Act (relating to
10 the smuggling of aliens);

11 “(18) any criminal violation of section 631 (relating to
12 chemical weapons); or sections 271, 273, 274, 275, 276,
13 278, 279, or 280 of this title (relating to terrorism);

14 “(19) any criminal violation of section 1 (relating to ille-
15 gal restraints of trade or commerce), 2 (relating to illegal
16 monopolizing of trade or commerce), 3 (relating to illegal
17 restraints of trade or commerce in territories or the Dis-
18 trict of Columbia) of the Sherman Act (15 U.S.C. 1, 2, 3);
19 or

20 “(20) any conspiracy to commit any offense described in
21 any subparagraph of this paragraph.

22 “(b) STATE PROSECUTORS.—The principal prosecuting at-
23 torney of any State, or the principal prosecuting attorney of
24 any political subdivision thereof, if such attorney is authorized
25 by a statute of that State to make application to a State court
26 judge of competent jurisdiction for an order authorizing or ap-
27 proving the interception of wire, oral, or electronic communica-
28 tions, may apply to such judge for, and such judge may grant
29 in conformity with section 2518 of this chapter and with the
30 applicable State statute an order authorizing, or approving the
31 interception of wire, oral, or electronic communications by in-
32 vestigative or law enforcement officers having responsibility for
33 the investigation of the offense as to which the application is
34 made, when such interception may provide or has provided evi-
35 dence of the commission of the offense of murder, kidnapping,
36 gambling, robbery, bribery, extortion, or dealing in narcotic
37 drugs, marihuana or other dangerous drugs, or other crime

1 dangerous to life, limb, or property, and punishable by impris-
2 onment for more than one year, designated in any applicable
3 State statute authorizing such interception, or any conspiracy
4 to commit any of the foregoing offenses.

5 “(c) INTERCEPTION FOR EVIDENCE OF FEDERAL FELO-
6 NIES.—Any attorney for the Government (as such term is de-
7 fined for the purposes of the Federal Rules of Criminal Proce-
8 dure) may authorize an application to a Federal judge of com-
9 petent jurisdiction for, and such judge may grant, in con-
10 formity with section 1498 of this title, an order authorizing or
11 approving the interception of electronic communications by an
12 investigative or law enforcement officer having responsibility for
13 the investigation of the offense as to which the application is
14 made, when such interception may provide or has provided evi-
15 dence of any Federal felony.

16 **“§ 1497. Authorization for disclosure and use of**
17 **intercepted wire, oral, or electronic com-**
18 **munications**

19 “(a) DISCLOSURE TO INVESTIGATIVE OR LAW ENFORCE-
20 MENT OFFICERS.— Any investigative or law enforcement offi-
21 cer who, by any means authorized by this chapter, has obtained
22 knowledge of the contents of any wire, oral, or electronic com-
23 munication, or evidence derived therefrom, may disclose such
24 contents to another investigative or law enforcement officer to
25 the extent that such disclosure is appropriate to the proper per-
26 formance of the official duties of the officer making or receiv-
27 ing the disclosure.

28 “(b) USE OF CONTENTS IN PERFORMANCE OF DUTIES.—
29 Any investigative or law enforcement officer who, by any means
30 authorized by this chapter, has obtained knowledge of the con-
31 tents of any wire, oral, or electronic communication or evidence
32 derived therefrom may use such contents to the extent such use
33 is appropriate to the proper performance of his official duties.

34 “(c) USE OF CONTENTS IN TESTIMONY.—Any person who
35 has received, by any means authorized by this chapter, any in-
36 formation concerning a wire, oral, or electronic communication,
37 or evidence derived therefrom intercepted in accordance with

1 the provisions of this chapter may disclose the contents of that
2 communication or such derivative evidence while giving testi-
3 mony under oath or affirmation in any proceeding held under
4 the authority of the United States or of any State or political
5 subdivision thereof.

6 “(d) PRIVILEGED CHARACTER.—No otherwise privileged
7 wire, oral, or electronic communication intercepted in accord-
8 ance with, or in violation of, this subchapter shall lose its privi-
9 leged character.

10 “(e) OFFENSES OTHER THAN THOSE SPECIFIED IN THE
11 ORDER.—When an investigative or law enforcement officer,
12 while engaged in intercepting wire, oral, or electronic commu-
13 nications in the manner authorized herein, intercepts wire, oral,
14 or electronic communications relating to offenses other than
15 those specified in the order of authorization or approval, the
16 contents thereof, and evidence derived therefrom, may be dis-
17 closed or used as provided in subsections (a) and (b). Such con-
18 tents and any evidence derived therefrom may be used under
19 subsection (c) when authorized or approved by a judge of com-
20 petent jurisdiction where such judge finds on subsequent appli-
21 cation that the contents were otherwise intercepted in accord-
22 ance with this subchapter. Such application shall be made as
23 soon as practicable.

24 “(f) DOMESTIC USE OF INTELLIGENCE AND COUNTER-
25 INTELLIGENCE INFORMATION.—Any investigative or law en-
26 forcement officer, or attorney for the Government, who by any
27 means authorized by this chapter, has obtained knowledge of
28 the contents of any wire, oral, or electronic communication, or
29 evidence derived therefrom, may disclose such contents to any
30 other Federal law enforcement, intelligence, protective, immi-
31 gration, national defense, or national security official to the ex-
32 tent that such contents include foreign intelligence or counter-
33 intelligence (as defined in section 3 of the National Security
34 Act of 1947 (50 U.S.C. 401a)), or foreign intelligence informa-
35 tion (as defined in subsection (19) of section 2510 of this title),
36 to assist the official who is to receive that information in the
37 performance of his official duties. Any Federal official who re-

1 ceives information pursuant to this provision may use that in-
2 formation only as necessary in the conduct of that person's of-
3 ficial duties subject to any limitations on the unauthorized dis-
4 closure of such information.

5 “(g) FOREIGN USE OF INTELLIGENCE AND COUNTERINTEL-
6 LIGENCE INFORMATION.— Any investigative or law enforce-
7 ment officer, or other Federal official in carrying out official
8 duties as such Federal official, who by any means authorized
9 by this chapter, has obtained knowledge of the contents of any
10 wire, oral, or electronic communication, or evidence derived
11 therefrom, may disclose such contents or derivative evidence to
12 a foreign investigative or law enforcement officer to the extent
13 that such disclosure is appropriate to the proper performance
14 of the official duties of the officer making or receiving the dis-
15 closure, and foreign investigative or law enforcement officers
16 may use or disclose such contents or derivative evidence to the
17 extent such use or disclosure is appropriate to the proper per-
18 formance of their official duties.

19 “(h) DISCLOSURE FOR PUBLIC SAFETY PURPOSES.—Any in-
20 vestigative or law enforcement officer, or other Federal official
21 in carrying out official duties as such Federal official, who by
22 any means authorized by this chapter, has obtained knowledge
23 of the contents of any wire, oral, or electronic communication,
24 or evidence derived therefrom, may disclose such contents or
25 derivative evidence to any appropriate Federal, State, local, or
26 foreign government official to the extent that such contents or
27 derivative evidence reveals a threat of actual or potential attack
28 or other grave hostile acts of a foreign power or an agent of
29 a foreign power, domestic or international sabotage, domestic
30 or international terrorism, or clandestine intelligence gathering
31 activities by an intelligence service or network of a foreign
32 power or by an agent of a foreign power, within the United
33 States or elsewhere, for the purpose of preventing or respond-
34 ing to such a threat. Any official who receives information pur-
35 suant to this provision may use that information only as nec-
36 essary in the conduct of that person's official duties subject to
37 any limitations on the unauthorized disclosure of such informa-

1 tion, and any State, local, or foreign official who receives infor-
2 mation pursuant to this provision may use that information
3 only consistent with such guidelines as the Attorney General
4 and Director of Central Intelligence shall jointly issue.

5 **“§ 1498. Procedure for interception of wire, oral,**
6 **or electronic communications**

7 “(a) APPLICATION.—Each application for an order author-
8 izing or approving the interception of a wire, oral, or electronic
9 communication under this chapter shall be made in writing
10 upon oath or affirmation to a judge of competent jurisdiction
11 and shall state the applicant’s authority to make such applica-
12 tion. Each application shall include the following information:

13 “(1) The identity of the investigative or law enforcement
14 officer making the application, and the officer authorizing
15 the application.

16 “(2) A full and complete statement of the facts and cir-
17 cumstances relied upon by the applicant, to justify his be-
18 lief that an order should be issued, including (A) details as
19 to the particular offense that has been, is being, or is about
20 to be committed, (B) except as provided in subsection (11),
21 a particular description of the nature and location of the
22 facilities from which or the place where the communication
23 is to be intercepted, (C) a particular description of the type
24 of communications sought to be intercepted, (D) the iden-
25 tity of the person, if known, committing the offense and
26 whose communications are to be intercepted.

27 “(3) A full and complete statement as to whether or not
28 other investigative procedures have been tried and failed or
29 why they reasonably appear to be unlikely to succeed if
30 tried or to be too dangerous.

31 “(4) A statement of the period of time for which the
32 interception is required to be maintained. If the nature of
33 the investigation is such that the authorization for intercep-
34 tion should not automatically terminate when the described
35 type of communication has been first obtained, a particular
36 description of facts establishing probable cause to believe

1 that additional communications of the same type will occur
2 thereafter.

3 “(5) A full and complete statement of the facts con-
4 cerning all previous applications known to the individual
5 authorizing and making the application, made to any judge
6 for authorization to intercept, or for approval of intercep-
7 tions of, wire, oral, or electronic communications involving
8 any of the same persons, facilities or places specified in the
9 application, and the action taken by the judge on each such
10 application.

11 “(6) Where the application is for the extension of an
12 order, a statement setting forth the results thus far ob-
13 tained from the interception, or a reasonable explanation of
14 the failure to obtain such results.

15 “(b) ADDITIONAL TESTIMONY OR DOCUMENTARY EVI-
16 DENCE.—The judge may require the applicant to furnish addi-
17 tional testimony or documentary evidence in support of the ap-
18 plication.

19 “(c) EX PARTE ORDER.—Upon such application the judge
20 may enter an ex parte order, as requested or as modified, au-
21 thORIZING or approving interception of wire, oral, or electronic
22 communications within the territorial jurisdiction of the court
23 in which the judge is sitting (and outside that jurisdiction but
24 within the United States in the case of a mobile interception
25 device authorized by a Federal court within such jurisdiction),
26 if the judge determines on the basis of the facts submitted by
27 the applicant that—

28 “(1) there is probable cause for belief that an individual
29 is committing, has committed, or is about to commit a par-
30 ticular offense enumerated in section 1496 of this chapter;

31 “(2) there is probable cause for belief that particular
32 communications concerning that offense will be obtained
33 through such interception;

34 “(3) normal investigative procedures have been tried and
35 have failed or reasonably appear to be unlikely to succeed
36 if tried or to be too dangerous; and

1 “(4) except as provided in subsection (k), there is prob-
2 able cause for belief that the facilities from which, or the
3 place where, the wire, oral, or electronic communications
4 are to be intercepted are being used, or are about to be
5 used, in connection with the commission of such offense, or
6 are leased to, listed in the name of, or commonly used by
7 such person.

8 “(d) CONTENTS OF ORDER.—Each order authorizing or ap-
9 proving the interception of any wire, oral, or electronic commu-
10 nication under this chapter shall specify—

11 “(1) the identity of the person, if known, whose commu-
12 nications are to be intercepted;

13 “(2) the nature and location of the communications fa-
14 cilities as to which, or the place where, authority to inter-
15 cept is granted;

16 “(3) a particular description of the type of communica-
17 tion sought to be intercepted, and a statement of the par-
18 ticular offense to which it relates;

19 “(4) the identity of the agency authorized to intercept
20 the communications, and of the person authorizing the ap-
21 plication; and

22 “(5) the period of time during which such interception
23 is authorized, including a statement as to whether or not
24 the interception shall automatically terminate when the de-
25 scribed communication has been first obtained.

26 An order authorizing the interception of a wire, oral, or elec-
27 tronic communication under this chapter shall, upon request of
28 the applicant, direct that a provider of wire or electronic com-
29 munication service, landlord, custodian or other person shall
30 furnish the applicant forthwith all information, facilities, and
31 technical assistance necessary to accomplish the interception
32 unobtrusively and with a minimum of interference with the
33 services that such service provider, landlord, custodian, or per-
34 son is according the person whose communications are to be
35 intercepted. Any provider of wire or electronic communication
36 service, landlord, custodian or other person furnishing such fa-
37 cilities or technical assistance shall be compensated therefor by

1 the applicant for reasonable expenses incurred in providing
2 such facilities or assistance. Pursuant to section 2522 of this
3 chapter, an order may also be issued to enforce the assistance
4 capability and capacity requirements under the Communica-
5 tions Assistance for Law Enforcement Act.

6 “(e) LIMITATIONS ON ORDERS.—No order entered under
7 this section may authorize or approve the interception of any
8 wire, oral, or electronic communication for any period longer
9 than is necessary to achieve the objective of the authorization,
10 nor in any event longer than thirty days. Such thirty-day pe-
11 riod begins on the earlier of the day on which the investigative
12 or law enforcement officer first begins to conduct an intercep-
13 tion under the order or ten days after the order is entered. Ex-
14 tensions of an order may be granted, but only upon application
15 for an extension made in accordance with subsection (1) of this
16 section and the court making the findings required by sub-
17 section (3) of this section. The period of extension shall be no
18 longer than the authorizing judge deems necessary to achieve
19 the purposes for which it was granted and in no event for
20 longer than thirty days. Every order and extension thereof shall
21 contain a provision that the authorization to intercept shall be
22 executed as soon as practicable, shall be conducted in such a
23 way as to minimize the interception of communications not oth-
24 erwise subject to interception under this chapter, and must ter-
25 minate upon attainment of the authorized objective, or in any
26 event in thirty days. In the event the intercepted communica-
27 tion is in a code or foreign language, and an expert in that for-
28 eign language or code is not reasonably available during the
29 interception period, minimization may be accomplished as soon
30 as practicable after such interception. An interception under
31 this chapter may be conducted in whole or in part by Govern-
32 ment personnel, or by an individual operating under a contract
33 with the Government, acting under the supervision of an inves-
34 tigative or law enforcement officer authorized to conduct the
35 interception.

36 “(f) REPORTS TO ISSUING JUDGE.—Whenever an order au-
37 thORIZING interception is entered pursuant to this chapter, the

1 order may require reports to be made to the judge who issued
2 the order showing what progress has been made toward
3 achievement of the authorized objective and the need for con-
4 tinued interception. Such reports shall be made at such inter-
5 vals as the judge may require.

6 “(g) EMERGENCY SITUATIONS.—Notwithstanding any other
7 provision of this chapter, any investigative or law enforcement
8 officer, specially designated by the Attorney General, the Dep-
9 uty Attorney General, the Associate Attorney General, or by
10 the principal prosecuting attorney of any State or subdivision
11 thereof acting pursuant to a statute of that State, who reason-
12 ably determines that—

13 “(1) an emergency situation exists that involves—

14 “(A) immediate danger of death or serious physical
15 injury to any person,

16 “(B) conspiratorial activities threatening the national
17 security interest, or

18 “(C) conspiratorial activities characteristic of orga-
19 nized crime,

20 that requires a wire, oral, or electronic communication to
21 be intercepted before an order authorizing such interception
22 can, with due diligence, be obtained, and

23 “(2) there are grounds upon which an order could be en-
24 tered under this chapter to authorize such interception,

25 may intercept such wire, oral, or electronic communication if an
26 application for an order approving the interception is made in
27 accordance with this section within forty-eight hours after the
28 interception has occurred, or begins to occur. In the absence of
29 an order, such interception shall immediately terminate when
30 the communication sought is obtained or when the application
31 for the order is denied, whichever is earlier. In the event such
32 application for approval is denied, or in any other case where
33 the interception is terminated without an order having been
34 issued, the contents of any wire, oral, or electronic communica-
35 tion intercepted shall be treated as having been obtained in vio-
36 lation of this chapter, and an inventory shall be served as pro-

1 vided for in subsection (d) of this section on the person named
2 in the application.

3 “(h) RECORDING OF INTERCEPTION.—(1) The contents of
4 any wire, oral, or electronic communication intercepted by any
5 means authorized by this chapter shall, if possible, be recorded
6 on tape or wire or other comparable device. The recording of
7 the contents of any wire, oral, or electronic communication
8 under this subsection shall be done in such a way as will pro-
9 tect the recording from editing or other alterations. Imme-
10 diately upon the expiration of the period of the order, or exten-
11 sions thereof, such recordings shall be made available to the
12 judge issuing such order and sealed under his directions. Cus-
13 tody of the recordings shall be wherever the judge orders. They
14 shall not be destroyed except upon an order of the issuing or
15 denying judge and in any event shall be kept for ten years. Du-
16 plicate recordings may be made for use or disclosure pursuant
17 to the provisions of subsections (1) and (2) of section 1497 of
18 this chapter for investigations. The presence of the seal pro-
19 vided for by this subsection, or a satisfactory explanation for
20 the absence thereof, shall be a prerequisite for the use or dis-
21 closure of the contents of any wire, oral, or electronic commu-
22 nication or evidence derived therefrom under subsection (3) of
23 section 1497.

24 “(2) Applications made and orders granted under this chap-
25 ter shall be sealed by the judge. Custody of the applications
26 and orders shall be wherever the judge directs. Such applica-
27 tions and orders shall be disclosed only upon a showing of good
28 cause before a judge of competent jurisdiction and shall not be
29 destroyed except on order of the issuing or denying judge, and
30 in any event shall be kept for ten years.

31 “(3) Any violation of the provisions of this subsection may
32 be punished as contempt of the issuing or denying judge.

33 “(4) Within a reasonable time but not later than ninety days
34 after the filing of an application for an order of approval under
35 section 1498(7)(b) which is denied or the termination of the pe-
36 riod of an order or extensions thereof, the issuing or denying
37 judge shall cause to be served, on the persons named in the

1 order or the application, and such other parties to intercepted
2 communications as the judge may determine in his discretion
3 that is in the interest of justice, an inventory which shall in-
4 clude notice of—

5 “(A) the fact of the entry of the order or the application;

6 “(B) the date of the entry and the period of authorized,
7 approved or disapproved interception, or the denial of the
8 application; and

9 “(C) the fact that during the period wire, oral, or elec-
10 tronic communications were or were not intercepted.

11 The judge, upon the filing of a motion, may in his discre-
12 tion make available to such person or his counsel for in-
13 spection such portions of the intercepted communications,
14 applications and orders as the judge determines to be in
15 the interest of justice. On an ex parte showing of good
16 cause to a judge of competent jurisdiction the serving of
17 the inventory required by this subsection may be postponed.

18 “(i) EXCLUSION AS EVIDENCE.—The contents of any wire,
19 oral, or electronic communication intercepted pursuant to this
20 chapter or evidence derived therefrom shall not be received in
21 evidence or otherwise disclosed in any trial, hearing, or other
22 proceeding in a Federal or State court unless each party, not
23 less than ten days before the trial, hearing, or proceeding, has
24 been furnished with a copy of the court order, and accom-
25 panying application, under which the interception was author-
26 ized or approved. This ten-day period may be waived by the
27 judge if he finds that it was not possible to furnish the party
28 with the above information ten days before the trial, hearing,
29 or proceeding and that the party will not be prejudiced by the
30 delay in receiving such information.

31 “(j) MOVE TO SUPPRESS.—(1) Any aggrieved person in any
32 trial, hearing, or proceeding in or before any court, department,
33 officer, agency, regulatory body, or other authority of the
34 United States, a State, or a political subdivision thereof, may
35 move to suppress the contents of any wire or oral communica-
36 tion intercepted pursuant to this chapter, or evidence derived
37 therefrom, on the grounds that—

- 1 “(A) the communication was unlawfully intercepted;
- 2 “(B) the order of authorization or approval under which
- 3 it was intercepted is insufficient on its face; or
- 4 “(C) the interception was not made in conformity with
- 5 the order of authorization or approval.

6 Such motion shall be made before the trial, hearing, or pro-

7 ceeding unless there was no opportunity to make such mo-

8 tion or the person was not aware of the grounds of the mo-

9 tion. If the motion is granted, the contents of the inter-

10 cepted wire or oral communication, or evidence derived

11 therefrom, shall be treated as having been obtained in vio-

12 lation of this chapter. The judge, upon the filing of such

13 motion by the aggrieved person, may in his discretion make

14 available to the aggrieved person or his counsel for inspec-

15 tion such portions of the intercepted communication or evi-

16 dence derived therefrom as the judge determines to be in

17 the interests of justice.

18 “(2) In addition to any other right to appeal, the United

19 States shall have the right to appeal from an order granting

20 a motion to suppress made under paragraph (1), or the denial

21 of an application for an order of approval, if the United States

22 attorney shall certify to the judge or other official granting

23 such motion or denying such application that the appeal is not

24 taken for purposes of delay. Such appeal shall be taken within

25 thirty days after the date the order was entered and shall be

26 diligently prosecuted.

27 “(3) The remedies and sanctions described in this chapter

28 with respect to the interception of electronic communications

29 are the only judicial remedies and sanctions for nonconstitu-

30 tional violations of this chapter involving such communications.

31 “(k) EXCEPTION TO SPECIFICATION OF FACILITY REQUIRE-

32 MENTS.—The requirements of subsections (a)(2)(B) and (c)(4)

33 relating to the specification of the facilities from which, or the

34 place where, the communication is to be intercepted do not

35 apply if—

36 “(1) in the case of an application with respect to the

37 interception of an oral communication—

1 “(A) the application is by a Federal investigative or
2 law enforcement officer and is approved by the Attor-
3 ney General, the Deputy Attorney General, the Asso-
4 ciate Attorney General, an Assistant Attorney General,
5 or an acting Assistant Attorney General;

6 “(B) the application contains a full and complete
7 statement as to why such specification is not practical
8 and identifies the person committing the offense and
9 whose communications are to be intercepted; and

10 “(C) the judge finds that such specification is not
11 practical; and

12 “(2) in the case of an application with respect to a wire
13 or electronic communication—

14 “(A) the application is by a Federal investigative or
15 law enforcement officer and is approved by the Attor-
16 ney General, the Deputy Attorney General, the Asso-
17 ciate Attorney General, an Assistant Attorney General,
18 or an acting Assistant Attorney General;

19 “(B) the application identifies the person believed to
20 be committing the offense and whose communications
21 are to be intercepted and the applicant makes a show-
22 ing that there is probable cause to believe that the per-
23 son’s actions could have the effect of thwarting inter-
24 ception from a specified facility;

25 “(C) the judge finds that such showing has been ade-
26 quately made; and

27 “(D) the order authorizing or approving the inter-
28 ception is limited to interception only for such time as
29 it is reasonable to presume that the person identified
30 in the application is or was reasonably proximate to the
31 instrument through which such communication will be
32 or was transmitted.

33 “(1) BEGINNING OF CERTAIN INTERCEPTIONS.—An intercep-
34 tion of a communication under an order with respect to which
35 the requirements of subsections (a)(2)(B) and (c)(4) of this
36 section do not apply by reason of subsection (k)(1) shall not
37 begin until the place where the communication is to be inter-

1 cepted is ascertained by the person implementing the intercep-
 2 tion order. A provider of wire or electronic communications
 3 service that has received an order as provided for in subsection
 4 (k)(2) may move the court to modify or quash the order on the
 5 ground that its assistance with respect to the interception can-
 6 not be performed in a timely or reasonable fashion. The court,
 7 upon notice to the government, shall decide such a motion ex-
 8 peditiously.

9 **“§ 1499. Reports concerning intercepted wire,**
 10 **oral, or electronic communications**

11 “(a) 30 DAYS AFTER EXPIRATION OF ORDER.—Within 30
 12 days after the expiration of an order (or each extension there-
 13 of) entered under section 1498, or the denial of an order ap-
 14 proving an interception, the issuing or denying judge shall re-
 15 port to the Administrative Office of the United States Courts—

16 “(1) the fact that an order or extension was applied for;

17 “(2) the kind of order or extension applied for (including
 18 whether or not the order was an order with respect to
 19 which the requirements of sections 1498(1)(b)(ii) and
 20 1498(3)(d) of this title did not apply by reason of section
 21 1498(3)(d) of this title);

22 “(3) the fact that the order or extension was granted as
 23 applied for, was modified, or was denied;

24 “(4) the period of interceptions authorized by the order,
 25 and the number and duration of any extensions of the
 26 order;

27 “(5) the offense specified in the order or application, or
 28 extension of an order;

29 “(6) the identity of the applying investigative or law en-
 30 forcement officer and agency making the application and
 31 the person authorizing the application; and

32 “(7) the nature of the facilities from which or the place
 33 where communications were to be intercepted.

34 “(b) ANNUAL JUSTICE DEPARTMENT REPORT.—In January
 35 of each year the Attorney General, an Assistant Attorney Gen-
 36 eral specially designated by the Attorney General, or the prin-
 37 cipal prosecuting attorney of a State, or the principal pros-

1 executing attorney for any political subdivision of a State, shall
2 report to the Administrative Office of the United States
3 Courts—

4 “(1) the information required by paragraphs (a) through
5 (g) of subsection (1) of this section with respect to each ap-
6 plication for an order or extension made during the pre-
7 ceding calendar year;

8 “(2) a general description of the interceptions made
9 under such order or extension, including (i) the approxi-
10 mate nature and frequency of incriminating communica-
11 tions intercepted, (ii) the approximate nature and fre-
12 quency of other communications intercepted, (iii) the ap-
13 proximate number of persons whose communications were
14 intercepted, (iv) the number of orders in which encryption
15 was encountered and whether such encryption prevented
16 law enforcement from obtaining the plain text of commu-
17 nications intercepted pursuant to such order, and (v) the
18 approximate nature, amount, and cost of the manpower
19 and other resources used in the interceptions;

20 “(3) the number of arrests resulting from interceptions
21 made under such order or extension, and the offenses for
22 which arrests were made;

23 “(4) the number of trials resulting from such intercep-
24 tions;

25 “(5) the number of motions to suppress made with re-
26 spect to such interceptions, and the number granted or de-
27 nied;

28 “(6) the number of convictions resulting from such inter-
29 ceptions and the offenses for which the convictions were ob-
30 tained and a general assessment of the importance of the
31 interceptions; and

32 “(7) the information required by paragraphs (b) through
33 (f) of this subsection with respect to orders or extensions
34 obtained in a preceding calendar year.

35 “(c) REPORT TO CONGRESS.—In April of each year the Di-
36 rector of the Administrative Office of the United States Courts
37 shall transmit to the Congress a full and complete report con-

cerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications pursuant to this subchapter and the number of orders and extensions granted or denied pursuant to this chapter during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (a) and (b) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (a) and (b).

“§ 1500. Recovery of civil damages authorized

“(a) IN GENERAL.—Except as provided in section 1492(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

“(b) RELIEF.—In an action under this section, appropriate relief includes—

“(1) such preliminary and other equitable or declaratory relief as may be appropriate;

“(2) damages under subsection (c) and punitive damages in appropriate cases; and

“(3) a reasonable attorney’s fee and other litigation costs reasonably incurred.

“(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

1 “(A) If the person who engaged in that conduct has not
2 previously been enjoined under section 1492, and has not
3 been found liable in a prior civil action under this section,
4 the court shall assess the greater of the sum of actual dam-
5 ages suffered by the plaintiff, or statutory damages of not
6 less than \$50 and not more than \$500.

7 “(B) If, on one prior occasion, the person who engaged
8 in that conduct has been enjoined under section 2511(5) or
9 has been found liable in a civil action under this section,
10 the court shall assess the greater of the sum of actual dam-
11 ages suffered by the plaintiff, or statutory damages of not
12 less than \$100 and not more than \$1000.

13 “(2) In any other action under this section, the court may
14 assess as damages whichever is the greater of—

15 “(A) the sum of the actual damages suffered by the
16 plaintiff and any profits made by the violator as a result
17 of the violation; or

18 “(B) statutory damages of whichever is the greater of
19 \$100 a day for each day of violation or \$10,000.

20 “(d) DEFENSE.—A good faith reliance on—

21 “(1) a court warrant or order, a grand jury subpoena,
22 a legislative authorization, or a statutory authorization;

23 “(2) a request of an investigative or law enforcement of-
24 ficer under section 1498(7) of this title; or

25 “(3) a good faith determination that section 1492(3) or
26 2511(2)(i) of this title permitted the conduct complained
27 of;

28 is a complete defense against any civil or criminal action
29 brought under this chapter or any other law.

30 “(e) LIMITATION.—A civil action under this section may not
31 be commenced later than two years after the date upon which
32 the claimant first has a reasonable opportunity to discover the
33 violation.

34 “(f) ADMINISTRATIVE DISCIPLINE.—If a court or appro-
35 priate department or agency determines that the United States
36 or any of its departments or agencies has violated any provision
37 of this chapter, and the court or appropriate department or

1 agency finds that the circumstances surrounding the violation
2 raise serious questions about whether or not an officer or em-
3 ployee of the United States acted willfully or intentionally with
4 respect to the violation, the department or agency shall, upon
5 receipt of a true and correct copy of the decision and findings
6 of the court or appropriate department or agency promptly ini-
7 tiate a proceeding to determine whether disciplinary action
8 against the officer or employee is warranted. If the head of the
9 department or agency involved determines that disciplinary ac-
10 tion is not warranted, he or she shall notify the Inspector Gen-
11 eral with jurisdiction over the department or agency concerned
12 and shall provide the Inspector General with the reasons for
13 such determination.

14 “(g) IMPROPER DISCLOSURE IS VIOLATION.—Any willful
15 disclosure or use by an investigative or law enforcement officer
16 or governmental entity of information beyond the extent per-
17 mitted by section 2517 is a violation of this chapter for pur-
18 poses of section 2520(a).

19 **“§ 1501. Injunction against illegal interception**

20 “Whenever it shall appear that any person is engaged or is
21 about to engage in any act which constitutes or will constitute
22 a felony violation of this chapter, the Attorney General may ini-
23 tiate a civil action in a district court of the United States to
24 enjoin such violation. The court shall proceed as soon as prac-
25 ticable to the hearing and determination of such an action, and
26 may, at any time before final determination, enter such a re-
27 straining order or prohibition, or take such other action, as is
28 warranted to prevent a continuing and substantial injury to the
29 United States or to any person or class of persons for whose
30 protection the action is brought. A proceeding under this sec-
31 tion is governed by the Federal Rules of Civil Procedure, except
32 that, if an indictment has been returned against the respond-
33 ent, discovery is governed by the Federal Rules of Criminal
34 Procedure.

1 **“§ 1502. Enforcement of the Communications As-**
2 **sistance for Law Enforcement Act**

3 “(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE
4 ORDER.—If a court authorizing an interception under this
5 chapter, a State statute, or the Foreign Intelligence Surveil-
6 lance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use
7 of a pen register or a trap and trace device under chapter 206
8 or a State statute finds that a telecommunications carrier has
9 failed to comply with the requirements of the Communications
10 Assistance for Law Enforcement Act, the court may, in accord-
11 ance with section 108 of such Act, direct that the carrier com-
12 ply forthwith and may direct that a provider of support services
13 to the carrier or the manufacturer of the carrier’s transmission
14 or switching equipment furnish forthwith modifications nec-
15 essary for the carrier to comply.

16 “(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY
17 GENERAL.—The Attorney General may, in a civil action in the
18 appropriate United States district court, obtain an order, in ac-
19 cordance with section 108 of the Communications Assistance
20 for Law Enforcement Act, directing that a telecommunications
21 carrier, a manufacturer of telecommunications transmission or
22 switching equipment, or a provider of telecommunications sup-
23 port services comply with such Act.

24 “(c) CIVIL PENALTY.—

25 “(1) IN GENERAL.—A court issuing an order under this
26 section against a telecommunications carrier, a manufac-
27 turer of telecommunications transmission or switching
28 equipment, or a provider of telecommunications support
29 services may impose a civil penalty of up to \$10,000 per
30 day for each day in violation after the issuance of the order
31 or after such future date as the court may specify.

32 “(2) CONSIDERATIONS.—In determining whether to im-
33 pose a civil penalty and in determining its amount, the
34 court shall take into account—

35 “(A) the nature, circumstances, and extent of the
36 violation;

1 “(B) the violator’s ability to pay, the violator’s good
2 faith efforts to comply in a timely manner, any effect
3 on the violator’s ability to continue to do business, the
4 degree of culpability, and the length of any delay in un-
5 dertaking efforts to comply; and

6 “(C) such other matters as justice may require.

7 “(d) DEFINITIONS.—As used in this section, the terms de-
8 fined in section 102 of the Communications Assistance for Law
9 Enforcement Act have the meanings provided, respectively, in
10 such section.

11 “SUBCHAPTER C—STORED WIRE AND ELECTRONIC
12 COMMUNICATIONS AND TRANSACTIONAL
13 RECORDS ACCESS

“Sec.

“1521. Unlawful access to stored communications.

“1522. Voluntary disclosure of customer communications or records.

“1523. Required disclosure of customer communications or records.

“1524. Backup preservation.

“1525. Delayed notice.

“1526. Cost reimbursement.

“1527. Civil action.

“1528. Exclusivity of remedies.

“1529. Counterintelligence access to telephone toll and transactional
records.

“1530. Wrongful disclosure of video tape rental or sale records.

“1531. Definitions for subchapter.

“1532. Civil actions against the United States.

14 “**§1521. Unlawful access to stored communications**

15 “(a) OFFENSE.—Except as provided in subsection (c) of this
16 section whoever—

17 “(1) intentionally accesses without authorization a facil-
18 ity through which an electronic communication service is
19 provided; or

20 “(2) intentionally exceeds an authorization to access that
21 facility;

22 and thereby obtains, alters, or prevents authorized access to a
23 wire or electronic communication while it is in electronic stor-
24 age in such system shall be punished as provided in subsection
25 (b) of this section.

26 “(b) PUNISHMENT.—The punishment for an offense under
27 subsection (a) of this section is—

1 “(1) if the offense is committed for purposes of commer-
2 cial advantage, malicious destruction or damage, or private
3 commercial gain, or in furtherance of any criminal or
4 tortious act in violation of the Constitution or laws of the
5 United States or any State—

6 “(A) a fine under this title or imprisonment for not
7 more than 5 years, or both, in the case of a first of-
8 fense under this subparagraph; and

9 “(B) a fine under this title or imprisonment for not
10 more than 10 years, or both, for any subsequent of-
11 fense under this subparagraph; and

12 “(2) in any other case—

13 “(A) a fine under this title or imprisonment for not
14 more than 1 year or both, in the case of a first offense
15 under this paragraph; and

16 “(B) a fine under this title or imprisonment for not
17 more than 5 years, or both, in the case of an offense
18 under this subparagraph that occurs after a conviction
19 of another offense under this section.

20 “(c) EXCEPTIONS.—Subsection (a) of this section does not
21 apply with respect to conduct authorized—

22 “(1) by the person or entity providing a wire or elec-
23 tronic communications service;

24 “(2) by a user of that service with respect to a commu-
25 nication of or intended for that user; or

26 “(3) in section 1523, 1524, or 1498 of this title.

27 **“§ 1522. Voluntary disclosure of customer commu-
28 nications or records**

29 “(a) PROHIBITIONS.—Except as provided in subsection (b)—

30 “(1) a person or entity providing an electronic commu-
31 nication service to the public shall not knowingly divulge to
32 any person or entity the contents of a communication while
33 in electronic storage by that service; and

34 “(2) a person or entity providing remote computing serv-
35 ice to the public shall not knowingly divulge to any person
36 or entity the contents of any communication which is car-
37 ried or maintained on that service—

1 “(A) on behalf of, and received by means of elec-
2 tronic transmission from (or created by means of com-
3 puter processing of communications received by means
4 of electronic transmission from), a subscriber or cus-
5 tomer of such service;

6 “(B) solely for the purpose of providing storage or
7 computer processing services to such subscriber or cus-
8 tomer, if the provider is not authorized to access the
9 contents of any such communications for purposes of
10 providing any services other than storage or computer
11 processing; and

12 “(3) a provider of remote computing service or electronic
13 communication service to the public shall not knowingly di-
14 vulge a record or other information pertaining to a sub-
15 scriber to or customer of such service (not including the
16 contents of communications covered by paragraph (1) or
17 (2)) to any governmental entity.

18 “(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—
19 A provider described in subsection (a) may divulge the contents
20 of a communication—

21 “(1) to an addressee or intended recipient of such com-
22 munication or an agent of such addressee or intended re-
23 cipient;

24 “(2) as otherwise authorized in section 1497, 1492, or
25 1523 of this title;

26 “(3) with the lawful consent of the originator or an ad-
27 dressee or intended recipient of such communication, or the
28 subscriber in the case of remote computing service;

29 “(4) to a person employed or authorized or whose facili-
30 ties are used to forward such communication to its destina-
31 tion;

32 “(5) as may be necessarily incident to the rendition of
33 the service or to the protection of the rights or property of
34 the provider of that service;

35 “(6) to the National Center for Missing and Exploited
36 Children, in connection with a report submitted thereto

1 under section 227 of the Victims of Child Abuse Act of
2 1990 (42 U.S.C. 13032);

3 “(7) to a law enforcement agency if the contents—

4 “(A) were inadvertently obtained by the service pro-
5 vider; and

6 “(B) appear to pertain to the commission of a crime;
7 and

8 “(8) to a Federal, State, or local governmental entity, if
9 the provider, in good faith, believes that an emergency in-
10 volving danger of death or serious physical injury to any
11 person requires disclosure without delay of communications
12 relating to the emergency.

13 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
14 RECORDS.—A provider described in subsection (a) may divulge
15 a record or other information pertaining to a subscriber to or
16 customer of such service (not including the contents of commu-
17 nications covered by subsection (a)(1) or (a)(2))—

18 “(1) as otherwise authorized in section 1523;

19 “(2) with the lawful consent of the customer or sub-
20 scriber;

21 “(3) as may be necessarily incident to the rendition of
22 the service or to the protection of the rights or property of
23 the provider of that service;

24 “(4) to a governmental entity, if the provider reasonably
25 believes that an emergency involving immediate danger of
26 death or serious physical injury to any person justifies dis-
27 closure of the information;

28 “(5) to the National Center for Missing and Exploited
29 Children, in connection with a report submitted thereto
30 under section 227 of the Victims of Child Abuse Act of
31 1990 (42 U.S.C. 13032); or

32 “(6) to any person other than a governmental entity.

33 **“§ 1523. Required disclosure of customer commu-
34 nications or records**

35 “(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICA-
36 TIONS IN ELECTRONIC STORAGE.—A governmental entity may
37 require the disclosure by a provider of electronic communication

1 service of the contents of a wire or electronic communication,
2 that is in electronic storage in an electronic communications
3 system for one hundred and eighty days or less, only pursuant
4 to a warrant issued using the procedures described in the Fed-
5 eral Rules of Criminal Procedure by a court with jurisdiction
6 over the offense under investigation or equivalent State war-
7 rant. A governmental entity may require the disclosure by a
8 provider of electronic communications services of the contents
9 of a wire or electronic communication that has been in elec-
10 tronic storage in an electronic communications system for more
11 than one hundred and eighty days by the means available
12 under subsection (b) of this section.

13 “(b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICA-
14 TIONS IN A REMOTE COMPUTING SERVICE.—(1) A govern-
15 mental entity may require a provider of remote computing serv-
16 ice to disclose the contents of any wire or electronic commu-
17 nication to which this paragraph is made applicable by para-
18 graph (2) of this subsection—

19 “(A) without required notice to the subscriber or cus-
20 tomer, if the governmental entity obtains a warrant issued
21 using the procedures described in the Federal Rules of
22 Criminal Procedure by a court with jurisdiction over the of-
23 fense under investigation or equivalent State warrant; or

24 “(B) with prior notice from the governmental entity to
25 the subscriber or customer if the governmental entity—

26 “(i) uses an administrative subpoena authorized by a
27 Federal or State statute or a Federal or State grand
28 jury or trial subpoena; or

29 “(ii) obtains a court order for such disclosure under
30 subsection (d) of this section;

31 except that delayed notice may be given pursuant to section
32 1525 of this title.

33 “(2) Paragraph (1) is applicable with respect to any wire or
34 electronic communication that is held or maintained on that
35 service—

36 “(A) on behalf of, and received by means of electronic
37 transmission from (or created by means of computer proc-

1 essing of communications received by means of electronic
2 transmission from), a subscriber or customer of such re-
3 mote computing service; and

4 “(B) solely for the purpose of providing storage or com-
5 puter processing services to such subscriber or customer, if
6 the provider is not authorized to access the contents of any
7 such communications for purposes of providing any services
8 other than storage or computer processing.

9 “(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION
10 SERVICE OR REMOTE COMPUTING SERVICE.—(1) governmental
11 entity may require a provider of electronic communication serv-
12 ice or remote computing service to disclose a record or other
13 information pertaining to a subscriber to or customer of such
14 service (not including the contents of communications) only
15 when the governmental entity—

16 “(A) obtains a warrant issued using the procedures de-
17 scribed in the Federal Rules of Criminal Procedure by a
18 court with jurisdiction over the offense under investigation
19 or equivalent State warrant;

20 “(B) obtains a court order for such disclosure under sub-
21 section (d) of this section;

22 “(C) has the consent of the subscriber or customer to
23 such disclosure;

24 “(D) submits a formal written request relevant to a law
25 enforcement investigation concerning telemarketing fraud
26 for the name, address, and place of business of a subscriber
27 or customer of such provider, which subscriber or customer
28 is engaged in telemarketing (as such term is defined in sec-
29 tion 2325 of this title); or

30 “(E) seeks information under paragraph (2).

31 “(2) A provider of electronic communication service or re-
32 mote computing service shall disclose to a governmental entity
33 the—

34 “(A) name;

35 “(B) address;

36 “(C) local and long distance telephone connection
37 records, or records of session times and durations;

1 “(D) length of service (including start date) and types of
2 service utilized;

3 “(E) telephone or instrument number or other subscriber
4 number or identity, including any temporarily assigned net-
5 work address; and

6 “(F) means and source of payment for such service (in-
7 cluding any credit card or bank account number),

8 of a subscriber to or customer of such service when the govern-
9 mental entity uses an administrative subpoena authorized by a
10 Federal or State statute or a Federal or State grand jury or
11 trial subpoena or any means available under paragraph (1).

12 “(3) A governmental entity receiving records or information
13 under this subsection is not required to provide notice to a sub-
14 scriber or customer.

15 “(d) REQUIREMENTS FOR COURT ORDER.—A court order
16 for disclosure under subsection (b) or (c) may be issued by any
17 court that is a court of competent jurisdiction and shall issue
18 only if the governmental entity offers specific and articulable
19 facts showing that there are reasonable grounds to believe that
20 the contents of a wire or electronic communication, or the
21 records or other information sought, are relevant and material
22 to an ongoing criminal investigation. In the case of a State gov-
23 ernmental authority, such a court order shall not issue if pro-
24 hibited by the law of such State. A court issuing an order pur-
25 suant to this section, on a motion made promptly by the service
26 provider, may quash or modify such order, if the information
27 or records requested are unusually voluminous in nature or
28 compliance with such order otherwise would cause an undue
29 burden on such provider.

30 “(e) NO CAUSE OF ACTION AGAINST A PROVIDER DIS-
31 CLOSING INFORMATION UNDER THIS CHAPTER.—No cause of
32 action shall lie in any court against any provider of wire or
33 electronic communication service, its officers, employees,
34 agents, or other specified persons for providing information, fa-
35 cilities, or assistance in accordance with the terms of a court
36 order, warrant, subpoena, statutory authorization, or certifi-
37 cation under this chapter.

1 “(f) REQUIREMENT TO PRESERVE EVIDENCE.—

2 “(1) IN GENERAL.—A provider of wire or electronic com-
3 munication services or a remote computing service, upon
4 the request of a governmental entity, shall take all nec-
5 essary steps to preserve records and other evidence in its
6 possession pending the issuance of a court order or other
7 process.

8 “(2) PERIOD OF RETENTION.—Records referred to in
9 paragraph (1) shall be retained for a period of 90 days,
10 which shall be extended for an additional 90-day period
11 upon a renewed request by the governmental entity.

12 “(g) PRESENCE OF OFFICER NOT REQUIRED.—Notwith-
13 standing section 3105 of this title, the presence of an officer
14 shall not be required for service or execution of a search war-
15 rant issued in accordance with this chapter requiring disclosure
16 by a provider of electronic communications service or remote
17 computing service of the contents of communications or records
18 or other information pertaining to a subscriber to or customer
19 of such service.

20 **“§ 1524. Backup preservation**

21 “(a) BACKUP PRESERVATION.—(1) A governmental entity
22 acting under section 1523(b)(2) may include in its subpoena or
23 court order a requirement that the service provider to whom
24 the request is directed create a backup copy of the contents of
25 the electronic communications sought in order to preserve those
26 communications. Without notifying the subscriber or customer
27 of such subpoena or court order, such service provider shall
28 create such backup copy as soon as practicable consistent with
29 its regular business practices and shall confirm to the govern-
30 mental entity that such backup copy has been made. Such
31 backup copy shall be created within two business days after re-
32 ceipt by the service provider of the subpoena or court order.

33 “(2) Notice to the subscriber or customer shall be made by
34 the governmental entity within three days after receipt of such
35 confirmation, unless such notice is delayed pursuant to section
36 1525(a).

1 “(3) The service provider shall not destroy such backup copy
2 until the later of—

3 “(A) the delivery of the information; or

4 “(B) the resolution of any proceedings (including appeals
5 of any proceeding) concerning the government’s subpoena
6 or court order.

7 “(4) The service provider shall release such backup copy to
8 the requesting governmental entity no sooner than fourteen
9 days after the governmental entity’s notice to the subscriber or
10 customer if such service provider—

11 “(A) has not received notice from the subscriber or cus-
12 tomer that the subscriber or customer has challenged the
13 governmental entity’s request; and

14 “(B) has not initiated proceedings to challenge the re-
15 quest of the governmental entity.

16 “(5) A governmental entity may seek to require the creation
17 of a backup copy under subsection (a)(1) of this section if in
18 its sole discretion such entity determines that there is reason
19 to believe that notification under section 1524 of this title of
20 the existence of the subpoena or court order may result in de-
21 struction of or tampering with evidence. This determination is
22 not subject to challenge by the subscriber or customer or serv-
23 ice provider.

24 “(b) CUSTOMER CHALLENGES.—(1) Within 14 days after
25 notice by the governmental entity to the subscriber or customer
26 under subsection (a)(2) of this section, such subscriber or cus-
27 tomer may file a motion to quash such subpoena or vacate such
28 court order, with copies served upon the governmental entity
29 and with written notice of such challenge to the service pro-
30 vider. A motion to vacate a court order shall be filed in the
31 court which issued such order. A motion to quash a subpoena
32 shall be filed in the appropriate United States district court or
33 State court. Such motion or application shall contain an affi-
34 davit or sworn statement—

35 “(A) stating that the applicant is a customer or sub-
36 scriber to the service from which the contents of electronic
37 communications maintained for him have been sought; and

1 “(B) stating the applicant’s reasons for believing that
2 the records sought are not relevant to a legitimate law en-
3 forcement inquiry or that there has not been substantial
4 compliance with the provisions of this chapter in some
5 other respect.

6 “(2) Service shall be made under this section upon a govern-
7 mental entity by delivering or mailing by registered or certified
8 mail a copy of the papers to the person, office, or department
9 specified in the notice which the customer has received pursu-
10 ant to this chapter. For the purposes of this section, the term
11 ‘delivery’ has the meaning given that term in the Federal Rules
12 of Civil Procedure.

13 “(3) If the court finds that the customer has complied with
14 paragraphs (1) and (2) of this subsection, the court shall order
15 the governmental entity to file a sworn response, which may be
16 filed in camera if the governmental entity includes in its re-
17 sponse the reasons which make in camera review appropriate.
18 If the court is unable to determine the motion or application
19 on the basis of the parties’ initial allegations and response, the
20 court may conduct such additional proceedings as it deems ap-
21 propriate. All such proceedings shall be completed and the mo-
22 tion or application decided as soon as practicable after the fil-
23 ing of the governmental entity’s response.

24 “(4) If the court finds that the applicant is not the sub-
25 scriber or customer for whom the communications sought by
26 the governmental entity are maintained, or that there is a rea-
27 son to believe that the law enforcement inquiry is legitimate
28 and that the communications sought are relevant to that in-
29 quiry, it shall deny the motion or application and order such
30 process enforced. If the court finds that the applicant is the
31 subscriber or customer for whom the communications sought by
32 the governmental entity are maintained, and that there is not
33 a reason to believe that the communications sought are relevant
34 to a legitimate law enforcement inquiry, or that there has not
35 been substantial compliance with the provisions of this chapter,
36 it shall order the process quashed.

1 “(5) A court order denying a motion or application under
2 this section shall not be deemed a final order and no interlocu-
3 tory appeal may be taken therefrom by the customer.

4 **“§ 1525. Delayed notice**

5 “(a) DELAY OF NOTIFICATION.—(1) A governmental entity
6 acting under section 1523(b) of this title may—

7 “(A) where a court order is sought, include in the appli-
8 cation a request, which the court shall grant, for an order
9 delaying the notification required under section 1523(b) of
10 this title for a period not to exceed ninety days, if the court
11 determines that there is reason to believe that notification
12 of the existence of the court order may have an adverse re-
13 sult described in paragraph (2) of this subsection; or

14 “(B) where an administrative subpoena authorized by a
15 Federal or State statute or a Federal or State grand jury
16 subpoena is obtained, delay the notification required under
17 section 1523(b) of this title for a period not to exceed nine-
18 ty days upon the execution of a written certification of a
19 supervisory official that there is reason to believe that noti-
20 fication of the existence of the subpoena may have an ad-
21 verse result described in paragraph (2) of this subsection.

22 “(2) An adverse result for the purposes of paragraph (1) of
23 this subsection is—

24 “(A) endangering the life or physical safety of an indi-
25 vidual;

26 “(B) flight from prosecution;

27 “(C) destruction of or tampering with evidence;

28 “(D) intimidation of potential witnesses; or

29 “(E) otherwise seriously jeopardizing an investigation or
30 unduly delaying a trial.

31 “(3) The governmental entity shall maintain a true copy of
32 certification under paragraph (1)(B).

33 “(4) Extensions of the delay of notification provided in sec-
34 tion 1523 of up to ninety days each may be granted by the
35 court upon application, or by certification by a governmental
36 entity, but only in accordance with subsection (b) of this sec-
37 tion.

1 “(5) Upon expiration of the period of delay of notification
2 under paragraph (1) or (4) of this subsection, the governmental
3 entity shall serve upon, or deliver by registered or first-class
4 mail to, the customer or subscriber a copy of the process or re-
5 quest together with notice that—

6 “(A) states with reasonable specificity the nature of the
7 law enforcement inquiry; and

8 “(B) informs such customer or subscriber—

9 “(i) that information maintained for such customer
10 or subscriber by the service provider named in such
11 process or request was supplied to or requested by that
12 governmental authority and the date on which the sup-
13 plying or request took place;

14 “(ii) that notification of such customer or subscriber
15 was delayed;

16 “(iii) what governmental entity or court made the
17 certification or determination pursuant to which that
18 delay was made; and

19 “(iv) which provision of this chapter allowed such
20 delay.

21 “(6) As used in this subsection, the term ‘supervisory offi-
22 cial’ means the investigative agent in charge or assistant inves-
23 tigative agent in charge or an equivalent of an investigating
24 agency’s headquarters or regional office, or the chief prose-
25 cuting attorney or the first assistant prosecuting attorney or
26 an equivalent of a prosecuting attorney’s headquarters or re-
27 gional office.

28 “(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERN-
29 MENTAL ACCESS.—A governmental entity acting under section
30 1523, when it is not required to notify the subscriber or cus-
31 tomer under section 1523(b)(1), or to the extent that it may
32 delay such notice pursuant to subsection (a) of this section,
33 may apply to a court for an order commanding a provider of
34 electronic communications service or remote computing service
35 to whom a warrant, subpoena, or court order is directed, for
36 such period as the court deems appropriate, not to notify any
37 other person of the existence of the warrant, subpoena, or court

1 order. The court shall enter such an order if it determines that
2 there is reason to believe that notification of the existence of
3 the warrant, subpoena, or court order will result in—

4 “(1) endangering the life or physical safety of an indi-
5 vidual;

6 “(2) flight from prosecution;

7 “(3) destruction of or tampering with evidence;

8 “(4) intimidation of potential witnesses; or

9 “(5) otherwise seriously jeopardizing an investigation or
10 unduly delaying a trial.

11 **“§ 1526. Cost reimbursement**

12 “(a) PAYMENT.—Except as otherwise provided in subsection
13 (c), a governmental entity obtaining the contents of commu-
14 nications, records, or other information under section 1522,
15 1553, or 1524 shall pay to the person or entity assembling or
16 providing such information a fee for reimbursement for such
17 costs as are reasonably necessary and which have been directly
18 incurred in searching for, assembling, reproducing, or otherwise
19 providing such information. Such reimbursable costs shall in-
20 clude any costs due to necessary disruption of normal oper-
21 ations 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 sub-
24 section (a) shall be as mutually agreed by the governmental en-
25 tity and the person or entity providing the information, or, in
26 the absence of agreement, shall be as determined by the court
27 which issued the order for production of such information (or
28 the court before which a criminal prosecution relating to such
29 information would be brought, if no court order was issued for
30 production of the information).

31 “(c) EXCEPTION.—The requirement of subsection (a) of this
32 section does not apply with respect to records or other informa-
33 tion maintained by a communications common carrier that re-
34 late to telephone toll records and telephone listings obtained
35 under section 2703 of this title. The court may, however, order
36 a payment as described in subsection (a) if the court deter-

1 mines the information required is unusually voluminous in na-
2 ture or otherwise caused an undue burden on the provider.

3 **“§ 1527. Civil action**

4 “(a) CAUSE OF ACTION.—Except as provided in section
5 1523(e), any provider of electronic communication service, sub-
6 scriber, or other person aggrieved by any violation of this sub-
7 chapter in which the conduct constituting the violation is en-
8 gaged in with a knowing or intentional state of mind may, in
9 a civil action, recover from the person or entity, other than the
10 United States, which engaged in that violation such relief as
11 may be appropriate.

12 “(b) RELIEF.—In a civil action under this section, appro-
13 priate relief includes—

14 “(1) such preliminary and other equitable or declaratory
15 relief as may be appropriate;

16 “(2) damages under subsection (c); and

17 “(3) a reasonable attorney’s fee and other litigation costs
18 reasonably incurred.

19 “(c) DAMAGES.—The court may assess as damages in a civil
20 action under this section the sum of the actual damages suf-
21 fered by the plaintiff and any profits made by the violator as
22 a result of the violation, but in no case shall a person entitled
23 to recover receive less than the sum of \$1,000. If the violation
24 is willful or intentional, the court may assess punitive damages.
25 In the case of a successful action to enforce liability under this
26 section, the court may assess the costs of the action, together
27 with reasonable attorney fees determined by the court.

28 “(d) ADMINISTRATIVE DISCIPLINE.—If a court or appro-
29 priate department or agency determines that the United States
30 or any of its departments or agencies has violated any provision
31 of this chapter, and the court or appropriate department or
32 agency finds that the circumstances surrounding the violation
33 raise serious questions about whether or not an officer or em-
34 ployee of the United States acted willfully or intentionally with
35 respect to the violation, the department or agency shall, upon
36 receipt of a true and correct copy of the decision and findings
37 of the court or appropriate department or agency promptly ini-

1 tiate a proceeding to determine whether disciplinary action
2 against the officer or employee is warranted. If the head of the
3 department or agency involved determines that disciplinary ac-
4 tion is not warranted, he or she shall notify the Inspector Gen-
5 eral with jurisdiction over the department or agency concerned
6 and shall provide the Inspector General with the reasons for
7 such determination.

8 “(e) DEFENSE.—A good faith reliance on—

9 “(1) a court warrant or order, a grand jury subpoena,
10 a legislative authorization, or a statutory authorization (in-
11 cluding a request of a governmental entity under section
12 1523(f) of this title);

13 “(2) a request of an investigative or law enforcement of-
14 ficer under section 1498(7) of this title; or

15 “(3) a good faith determination that section 1492(3) of
16 this title permitted the conduct complained of;

17 is a complete defense to any civil or criminal action brought
18 under this chapter or any other law.

19 “(f) LIMITATION.—A civil action under this section may not
20 be commenced later than two years after the date upon which
21 the claimant first discovered or had a reasonable opportunity
22 to discover the violation.

23 “(g) IMPROPER DISCLOSURE.—Any willful disclosure of a
24 ‘record’, as that term is defined in section 552a(a) of title 5,
25 United States Code, obtained by an investigative or law en-
26 forcement officer, or a governmental entity, pursuant to section
27 1523 of this title, or from a device installed pursuant to section
28 3123 or 3125 of this title, that is not a disclosure made in the
29 proper performance of the official functions of the officer or
30 governmental entity making the disclosure, is a violation of this
31 chapter. This provision shall not apply to information pre-
32 viously lawfully disclosed (prior to the commencement of any
33 civil or administrative proceeding under this chapter) to the
34 public by a Federal, State, or local governmental entity or by
35 the plaintiff in a civil action under this chapter.

1 **“§ 1528. Exclusivity of remedies**

2 “The remedies and sanctions described in this subchapter
3 are the only judicial remedies and sanctions for nonconstitu-
4 tional violations of this subchapter.

5 **“§ 1529. Counterintelligence access to telephone**
6 **toll and transactional records**

7 “(a) DUTY TO PROVIDE.—A wire or electronic communica-
8 tion service provider shall comply with a request for subscriber
9 information and toll billing records information, or electronic
10 communication transactional records in its custody or posses-
11 sion made by the Director of the Federal Bureau of Investiga-
12 tion under subsection (b) of this section.

13 “(b) REQUIRED CERTIFICATION.—The Director of the Fed-
14 eral Bureau of Investigation, or his designee in a position not
15 lower than Deputy Assistant Director at Bureau headquarters
16 or a Special Agent in Charge in a Bureau field office des-
17 ignated by the Director, may—

18 “(1) request the name, address, length of service, and
19 local and long distance toll billing records of a person or
20 entity if the Director (or his designee) certifies in writing
21 to the wire or electronic communication service provider to
22 which the request is made that the name, address, length
23 of service, and toll billing records sought are relevant to an
24 authorized investigation to protect against international
25 terrorism or clandestine intelligence activities, provided that
26 such an investigation of a United States person is not con-
27 ducted solely on the basis of activities protected by the first
28 amendment to the Constitution of the United States; and

29 “(2) request the name, address, and length of service of
30 a person or entity if the Director (or his designee) certifies
31 in writing to the wire or electronic communication service
32 provider to which the request is made that the information
33 sought is relevant to an authorized investigation to protect
34 against international terrorism or clandestine intelligence
35 activities, provided that such an investigation of a United
36 States person is not conducted solely upon the basis of ac-

1 requested or obtained specific video materials or services
2 from a video tape service provider; and

3 “(4) the term ‘video tape service provider’ means any
4 person, engaged in the business, in or affecting interstate
5 or foreign commerce, of rental, sale, or delivery of
6 prerecorded video cassette tapes or similar audio visual ma-
7 terials, or any person or other entity to whom a disclosure
8 is made under subparagraph (D) or (E) of subsection
9 (b)(2), but only with respect to the information contained
10 in the disclosure.

11 “(b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A
12 video tape service provider who knowingly discloses, to any per-
13 son, personally identifiable information concerning any con-
14 sumer of such provider shall be liable to the aggrieved person
15 for the relief provided in subsection (d).

16 “(2) A video tape service provider may disclose personally
17 identifiable information concerning any consumer—

18 “(A) to the consumer;

19 “(B) to any person with the informed, written consent of
20 the consumer given at the time the disclosure is sought;

21 “(C) to a law enforcement agency pursuant to a warrant
22 issued under the Federal Rules of Criminal Procedure, an
23 equivalent State warrant, a grand jury subpoena, or a
24 court order;

25 “(D) to any person if the disclosure is solely of the
26 names and addresses of consumers and if—

27 “(i) the video tape service provider has provided the
28 consumer with the opportunity, in a clear and con-
29 spicuous manner, to prohibit such disclosure; and

30 “(ii) the disclosure does not identify the title, de-
31 scription, or subject matter of any video tapes or other
32 audio visual material; however, the subject matter of
33 such materials may be disclosed if the disclosure is for
34 the exclusive use of marketing goods and services di-
35 rectly to the consumer;

1 “(E) to any person if the disclosure is incident to the or-
2 ordinary course of business of the video tape service provider;
3 or

4 “(F) pursuant to a court order, in a civil proceeding
5 upon a showing of compelling need for the information that
6 cannot be accommodated by any other means, if—

7 “(i) the consumer is given reasonable notice, by the
8 person seeking the disclosure, of the court proceeding
9 relevant to the issuance of the court order; and

10 “(ii) the consumer is afforded the opportunity to ap-
11 pear and contest the claim of the person seeking the
12 disclosure.

13 If an order is granted pursuant to subparagraph (C) or (F),
14 the court shall impose appropriate safeguards against unau-
15 thorized disclosure.

16 “(3) Court orders authorizing disclosure under subparagraph
17 (C) shall issue only with prior notice to the consumer and only
18 if the law enforcement agency shows that there is probable
19 cause to believe that the records or other information sought
20 are relevant to a legitimate law enforcement inquiry. In the
21 case of a State government authority, such a court order shall
22 not issue if prohibited by the law of such State. A court issuing
23 an order pursuant to this section, on a motion made promptly
24 by the video tape service provider, may quash or modify such
25 order if the information or records requested are unreasonably
26 voluminous in nature or if compliance with such order other-
27 wise would cause an unreasonable burden on such provider.

28 “(c) CIVIL ACTION.—(1) Any person aggrieved by any act of
29 a person in violation of this section may bring a civil action in
30 a United States district court.

31 “(2) The court may award—

32 “(A) actual damages but not less than liquidated dam-
33 ages in an amount of \$2,500;

34 “(B) punitive damages;

35 “(C) reasonable attorneys’ fees and other litigation costs
36 reasonably incurred; and

1 “(D) such other preliminary and equitable relief as the
2 court determines to be appropriate.

3 “(3) No action may be brought under this subsection unless
4 such action is begun within 2 years from the date of the act
5 complained of or the date of discovery.

6 “(4) No liability shall result from lawful disclosure permitted
7 by this section.

8 “(d) PERSONALLY IDENTIFIABLE INFORMATION.—Person-
9 ally identifiable information obtained in any manner other than
10 as provided in this section shall not be received in evidence in
11 any trial, hearing, arbitration, or other proceeding in or before
12 any court, grand jury, department, officer, agency, regulatory
13 body, legislative committee, or other authority of the United
14 States, a State, or a political subdivision of a State.

15 “(e) DESTRUCTION OF OLD RECORDS.—A person subject to
16 this section shall destroy personally identifiable information as
17 soon as practicable, but no later than one year from the date
18 the information is no longer necessary for the purpose for
19 which it was collected and there are no pending requests or or-
20 ders for access to such information under subsection (b)(2) or
21 (c)(2) or pursuant to a court order.

22 “(f) PREEMPTION.—The provisions of this section preempt
23 only the provisions of State or local law that require disclosure
24 prohibited by this section.

25 **“§ 1531. Definitions for subchapter**

26 “As used in this subchapter—

27 “(1) the terms defined in section 1491 have, respectively,
28 the definitions given such terms in that section;

29 “(2) the term ‘remote computing service’ means the pro-
30 vision to the public of computer storage or processing serv-
31 ices by means of an electronic communications system; and

32 “(3) the term ‘court of competent jurisdiction’ has the
33 meaning assigned by section 3127, and includes any Fed-
34 eral court within that definition, without geographic limita-
35 tion.

1 **“§ 1532. Civil actions against the United States**

2 “(a) IN GENERAL.—Any person who is aggrieved by any
3 willful violation of this chapter or subchapter B of chapter 37
4 of this title or of sections 106(a), 305(a), or 405(a) of the For-
5 eign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
6 seq.) may commence an action in United States District Court
7 against the United States to recover money damages. In any
8 such action, if a person who is aggrieved successfully estab-
9 lishes such a violation of this subchapter or subchapter B or
10 of the above specified provisions of title 50, the Court may as-
11 sess as damages—

12 “(1) actual damages, but not less than \$10,000, which-
13 ever amount is greater; and

14 “(2) litigation costs, reasonably incurred.

15 “(b) PROCEDURES.—(1) Any action against the United
16 States under this section may be commenced only after a claim
17 is presented to the appropriate department or agency under the
18 procedures of the Federal Tort Claims Act, as set forth in title
19 28, United States Code.

20 “(2) Any action against the United States under this section
21 shall be forever barred unless it is presented in writing to the
22 appropriate Federal agency within 2 years after such claim ac-
23 crues or unless action is begun within 6 months after the date
24 of mailing, by certified or registered mail, of notice of final de-
25 nial of the claim by the agency to which it was presented. The
26 claim shall accrue on the date upon which the claimant first
27 has a reasonable opportunity to discover the violation.

28 “(3) Any action under this section shall be tried to the court
29 without a jury.

30 “(4) Notwithstanding any other provision of law, the proce-
31 dures set forth in section 106(f), 305(g), or 405(f) of the For-
32 eign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
33 seq.) shall be the exclusive means by which materials governed
34 by those sections may be reviewed.

35 “(5) An amount equal to any award against the United
36 States under this section shall be reimbursed by the depart-
37 ment or agency concerned to the fund described in section 1304

1 of title 31, United States Code, out of any appropriation, fund,
2 or other account (excluding any part of such appropriation,
3 fund, or account that is available for the enforcement of any
4 Federal law) that is available for the operating expenses of the
5 department or agency concerned.

6 “(c) ADMINISTRATIVE DISCIPLINE.—If a court or appro-
7 priate department or agency determines that the United States
8 or any of its departments or agencies has violated any provision
9 of this chapter, and the court or appropriate department or
10 agency finds that the circumstances surrounding the violation
11 raise serious questions about whether or not an officer or em-
12 ployee of the United States acted willfully or intentionally with
13 respect to the violation, the department or agency shall, upon
14 receipt of a true and correct copy of the decision and findings
15 of the court or appropriate department or agency promptly ini-
16 tiate a proceeding to determine whether disciplinary action
17 against the officer or employee is warranted. If the head of the
18 department or agency involved determines that disciplinary ac-
19 tion is not warranted, he or she shall notify the Inspector Gen-
20 eral with jurisdiction over the department or agency concerned
21 and shall provide the Inspector General with the reasons for
22 such determination.

23 “(d) EXCLUSIVE REMEDY.—Any action against the United
24 States under this subsection shall be the exclusive remedy
25 against the United States for any claims within the purview of
26 this section.

27 “(e) STAY OF PROCEEDINGS.—(1) Upon the motion of the
28 United States, the court shall stay any action commenced
29 under this section if the court determines that civil discovery
30 will adversely affect the ability of the Government to conduct
31 a related investigation or the prosecution of a related criminal
32 case. Such a stay shall toll the limitations periods of paragraph
33 (2) of subsection (b).

34 “(2) In this subsection, the terms ‘related criminal case’ and
35 ‘related investigation’ mean an actual prosecution or investiga-
36 tion in progress at the time at which the request for the stay
37 or any subsequent motion to lift the stay is made. In deter-

1 mining whether an investigation or a criminal case is related
 2 to an action commenced under this section, the court shall con-
 3 sider the degree of similarity between the parties, witnesses,
 4 facts, and circumstances involved in the 2 proceedings, without
 5 requiring that any one or more factors be identical.

6 “(3) In requesting a stay under paragraph (1), the Govern-
 7 ment may, in appropriate cases, submit evidence ex parte in
 8 order to avoid disclosing any matter that may adversely affect
 9 a related investigation or a related criminal case. If the Govern-
 10 ment makes such an ex parte submission, the plaintiff shall be
 11 given an opportunity to make a submission to the court, not
 12 ex parte, and the court may, in its discretion, request further
 13 information from either party.

14 “SUBCHAPTER D—PROHIBITION ON RELEASE AND
 15 USE OF CERTAIN PERSONAL INFORMATION FROM
 16 STATE MOTOR VEHICLE RECORDS

“Sec.

“1541. Prohibition on release and use of certain personal information
 from State motor vehicle records.

“1542. Additional unlawful acts.

“1543. Penalties.

“1544. Civil action.

“1545. Definitions.

17 “§ 1541. **Prohibition on release and use of certain**
 18 **personal information from State motor ve-**
 19 **hicle records**

20 “(a) IN GENERAL.—A State department of motor vehicles,
 21 and any officer, employee, or contractor thereof, shall not
 22 knowingly disclose or otherwise make available to any person
 23 or entity—

24 “(1) personal information about any individual obtained
 25 by the department in connection with a motor vehicle
 26 record, except as provided in subsection (b) of this section;
 27 or

28 “(2) highly restricted personal information about any in-
 29 dividual obtained by the department in connection with a
 30 motor vehicle record, without the express consent of the
 31 person to whom such information applies, except uses per-
 32 mitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9), but

1 this paragraph does not in any way affect the use of organ
2 donation information on an individual's driver's license or
3 affect the administration of organ donation initiatives in
4 the States.

5 “(b) PERMISSIBLE USES.—Personal information referred to
6 in subsection (a) shall be disclosed for use in connection with
7 matters of motor vehicle or driver safety and theft, motor vehi-
8 cle emissions, motor vehicle product alterations, recalls, or
9 advisories, performance monitoring of motor vehicles and deal-
10 ers by motor vehicle manufacturers, and removal of non-owner
11 records from the original owner records of motor vehicle manu-
12 facturers to carry out the purposes of titles I and IV of the
13 Anti Car Theft Act of 1992, the Automobile Information Dis-
14 closure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42
15 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of
16 title 49, and, subject to subsection (a)(2), may be disclosed as
17 follows:

18 “(1) For use by any government agency, including any
19 court or law enforcement agency, in carrying out its func-
20 tions, or any private person or entity acting on behalf of
21 a Federal, State, or local agency in carrying out its func-
22 tions.

23 “(2) For use in connection with matters of motor vehicle
24 or driver safety and theft; motor vehicle emissions; motor
25 vehicle product alterations, recalls, or advisories; perform-
26 ance monitoring of motor vehicles, motor vehicle parts and
27 dealers; motor vehicle market research activities, including
28 survey research; and removal of non-owner records from
29 the original owner records of motor vehicle manufacturers.

30 “(3) For use in the normal course of business by a legiti-
31 mate business or its agents, employees, or contractors, but
32 only—

33 “(A) to verify the accuracy of personal information
34 submitted by the individual to the business or its
35 agents, employees, or contractors; and

36 “(B) if such information as so submitted is not cor-
37 rect or is no longer correct, to obtain the correct infor-

1 mation, but only for the purposes of preventing fraud
2 by, pursuing legal remedies against, or recovering on a
3 debt or security interest against, the individual.

4 “(4) For use in connection with any civil, criminal, ad-
5 ministrative, or arbitral proceeding in any Federal, State,
6 or local court or agency or before any self-regulatory body,
7 including the service of process, investigation in anticipa-
8 tion of litigation, and the execution or enforcement of judg-
9 ments and orders, or pursuant to an order of a Federal,
10 State, or local court.

11 “(5) For use in research activities, and for use in pro-
12 ducing statistical reports, so long as the personal informa-
13 tion is not published, redisclosed, or used to contact indi-
14 viduals.

15 “(6) For use by any insurer or insurance support organi-
16 zation, or by a self-insured entity, or its agents, employees,
17 or contractors, in connection with claims investigation ac-
18 tivities, antifraud activities, rating or underwriting.

19 “(7) For use in providing notice to the owners of towed
20 or impounded vehicles.

21 “(8) For use by any licensed private investigative agency
22 or licensed security service for any purpose permitted under
23 this subsection.

24 “(9) For use by an employer or its agent or insurer to
25 obtain or verify information relating to a holder of a com-
26 mercial driver’s license that is required under chapter 313
27 of title 49.

28 “(10) For use in connection with the operation of private
29 toll transportation facilities.

30 “(11) For any other use in response to requests for indi-
31 vidual motor vehicle records if the State has obtained the
32 express consent of the person to whom such personal infor-
33 mation pertains.

34 “(12) For bulk distribution for surveys, marketing or so-
35 licitations if the State has obtained the express consent of
36 the person to whom such personal information pertains.

1 “(13) For use by any requester, if the requester dem-
2 onstrates it has obtained the written consent of the indi-
3 vidual to whom the information pertains.

4 “(14) For any other use specifically authorized under the
5 law of the State that holds the record, if such use is related
6 to the operation of a motor vehicle or public safety.

7 “(c) RESALE OR REDISCLOSURE.—An authorized recipient
8 of personal information (except a recipient under subsection
9 (b)(11) or (12)) may resell or redisclose the information only
10 for a use permitted under subsection (b) (but not for uses
11 under subsection (b)(11) or (12)). An authorized recipient
12 under subsection (b)(11) may resell or redisclose personal in-
13 formation for any purpose. An authorized recipient under sub-
14 section (b)(12) may resell or redisclose personal information
15 pursuant to subsection (b)(12). Any authorized recipient (ex-
16 cept a recipient under subsection (b)(11)) that resells or redis-
17 closes personal information covered by this chapter must keep
18 for a period of 5 years records identifying each person or entity
19 that receives information and the permitted purpose for which
20 the information will be used and must make such records avail-
21 able to the motor vehicle department upon request.

22 “(d) WAIVER PROCEDURES.—A State motor vehicle depart-
23 ment may establish and carry out procedures under which the
24 department or its agents, upon receiving a request for personal
25 information that does not fall within one of the exceptions in
26 subsection (b), may mail a copy of the request to the individual
27 about whom the information was requested, informing such in-
28 dividual of the request, together with a statement to the effect
29 that the information will not be released unless the individual
30 waives such individual’s right to privacy under this section.

31 “(e) PROHIBITION ON CONDITIONS.—No State may condi-
32 tion or burden in any way the issuance of an individual’s motor
33 vehicle record to obtain express consent. Nothing in this para-
34 graph shall be construed to prohibit a State from charging an
35 administrative fee for issuance of a motor vehicle record.

“§ 1542. Additional unlawful acts

“(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 1541(b) of this title.

“(b) FALSE REPRESENTATION.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual’s motor vehicle record.

“§ 1543. Penalties

“(a) CRIMINAL FINE.—A person who knowingly violates this chapter shall be fined under this title.

“(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than \$5,000 a day for each day of substantial noncompliance.

“§ 1544. Civil action

“(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

“(b) REMEDIES.—The court may award—

“(1) actual damages, but not less than liquidated damages in the amount of \$2,500;

“(2) punitive damages upon proof of willful or reckless disregard of the law;

“(3) reasonable attorneys’ fees and other litigation costs reasonably incurred; and

“(4) such other preliminary and equitable relief as the court determines to be appropriate.

“§ 1545. Definitions

“As used in this subchapter—

“(1) the term ‘motor vehicle record’ means any record that pertains to a motor vehicle operator’s permit, motor

1 vehicle title, motor vehicle registration, or identification
2 card issued by a department of motor vehicles;

3 “(2) the term ‘personal information’ means information
4 that identifies an individual, including an individual’s pho-
5 tograph, social security number, driver identification num-
6 ber, name, address (but not the 5-digit zip code), telephone
7 number, and medical or disability information, but does not
8 include information on vehicular accidents, driving viola-
9 tions, and driver’s status;

10 “(3) the term ‘highly restricted personal information’
11 means an individual’s photograph or image, social security
12 number, medical or disability information; and

13 “(4) the term ‘express consent’ means consent in writing,
14 including consent conveyed electronically that bears an elec-
15 tronic signature as defined in section 106(5) of Public Law
16 106–229.

17 “SUBCHAPTER E—IDENTITY THEFT

“Sec.

“1551. Obtaining information under false pretenses.

“1552. Unauthorized disclosures by officers or employees.

“1553. Definitions for subchapter.

18 **“§ 1551. Obtaining information under false pre-**
19 **tenses**

20 “Whoever knowingly obtains information on a consumer
21 from a consumer reporting agency under false pretenses shall
22 be imprisoned for not more than 2 years.

23 **“§ 1552. Unauthorized disclosures by officers or**
24 **employees**

25 “Any officer or employee of a consumer reporting agency
26 who knowingly provides information concerning an individual
27 from the agency’s files to a person not authorized to receive
28 that information shall be imprisoned for not more than 2 years.

29 **“§ 1553. Definitions for subchapter**

30 “A term defined in the Fair Credit Reporting Act shall have
31 the same meaning when used in the subchapter.

32 **“CHAPTER 50—FORFEITURE**

| | |
|---|-------------|
| “Subchapter | Sec. |
| “A. Property subject to forfeiture | 2501 |

| | |
|--------------------------------------|-------------|
| “B. Civil forfeiture | 2551 |
| “C. Criminal forfeiture | 2561 |

“SUBCHAPTER A—PROPERTY SUBJECT TO FORFEITURE

“Sec.

“2501. Forfeitable property.

1 **“§ 2501. Forfeitable property**

2 “(a) DEFINITIONS.—As used in this chapter—

3 “(1) the term ‘forfeitable property’ means any property, real
4 or personal, tangible or intangible, that is—

5 “(A) used or intended to be used to commit or facili-
6 tate the offense;

7 “(B) constituting, derived from, or traceable to pro-
8 ceeds of the offense; or

9 “(C) substitute assets for property described in sub-
10 paragraph (1) or (B); and

11 “(2) the term ‘proceeds’ means all property obtained di-
12 rectly or indirectly from the offense.

13 “(b) SPECIAL RULE FOR TERRORIST OFFENSES.—In the
14 case of an act of domestic or international terrorism, as defined
15 in section 283, there shall be deemed to be involved in the of-
16 fense all assets, foreign and domestic—

17 “(A) of any individual, entity, or organization en-
18 gaged in planning or perpetrating the act, and all as-
19 sets, foreign or domestic, affording any person a source
20 of influence over any such entity or organization;

21 “(B) acquired or maintained by any person with the
22 intent and for the purpose of supporting, planning,
23 conducting, or concealing the act; or

24 “(C) derived from, involved in, or used or intended
25 to be used to commit the act of domestic or inter-
26 national terrorism.

27 “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 FOR-
3 FEITURE.—All right, title, and interest in forfeitable property
4 relating to an offense described in subsection (b) shall vest in
5 the United States upon commission of that offense.

6 “(b) OFFENSES GIVING RISE TO CIVIL FORFEITURE.—The
7 following offenses give rise to civil forfeiture under this section:

8 “(1) A violation of section 612, 614, 692-695, 697-702,
9 712, 773-775, 779, 783, 786, 787, 789, 804, 862-865, or
10 1003 or any offense constituting ‘specified unlawful activ-
11 ity’ (as defined in section 1451).

12 “(2) An offense against a foreign nation, or any property
13 used to facilitate such an offense, if the offense—

14 “(A) involves the manufacture, importation, sale, or
15 distribution of a controlled substance (as that term is
16 defined for purposes of the controlled substances act),
17 or any other conduct described in section 1451;

18 “(B) would be punishable within the jurisdiction of
19 the foreign nation by death or imprisonment for a term
20 exceeding one year; and

21 “(C) would be punishable under the laws of the
22 United States by imprisonment for a term exceeding
23 one year, if the conduct constituting the offense had oc-
24 curred within the jurisdiction of the United States.

25 “(3) A violation of—

26 “(A) section 654 (relating to Federal program
27 fraud);

28 “(B) section 772 (relating to fraud and false state-
29 ments);

30 “(C) section 788 (relating to major fraud against the
31 United States);

32 “(D) section 789 (relating to concealment of assets
33 from conservator or receiver of insured financial insti-
34 tution);

35 “(E) section 801 (relating to mail fraud); or

1 “(F) section 803 (relating to wire fraud),
 2 if such violation relates to the sale of assets acquired or
 3 held by the Resolution Trust Corporation, the Federal De-
 4 posit Insurance Corporation, as conservator or receiver for
 5 a financial institution, or any other conservator for a finan-
 6 cial institution appointed by the Office of the Comptroller
 7 of the Currency or the Office of Thrift Supervision or the
 8 National Credit Union Administration, as conservator or
 9 liquidating agent for a financial institution.

10 “(4) A violation of—

11 “(A) section 718 (altering or removing motor vehicle
 12 identification numbers);

13 “(B) section 866 (importing or exporting stolen
 14 motor vehicles);

15 “(C) section 671 (transporting stolen motor vehicles
 16 in interstate commerce); or

17 “(D) section 672 (possessing or selling a stolen
 18 motor vehicle that has moved in interstate commerce).

19 “(5) Any act of domestic or international terrorism (as
 20 defined in section 283) against the United States, citizens
 21 or residents of the United States, or their property, against
 22 any international organization as defined in the State De-
 23 partment Basic Authorities Act of 1956, or against any for-
 24 eign government.

25 “(6) A violation, of section 280.

26 “(c) APPLICATION TO OTHER CIVIL FORFEITURES.—Unless
 27 otherwise specified, whenever a law of the United States pro-
 28 vides for civil forfeiture, this subchapter shall apply to that for-
 29 feiture.

30 **“§ 2552. Procedure generally**

31 “(a) SEIZURE AND PRELIMINARY MATTERS.—

32 “(1) Except as provided in section 2555, any property
 33 subject to forfeiture to the United States under section
 34 2551 may be seized by the Attorney General and, in the
 35 case of property involved in a violation investigated by the
 36 Secretary of the Treasury or the United States Postal

1 Service, the property may also be seized by the Secretary
2 of the Treasury or the Postal Service, respectively.

3 “(2) Seizures under this section shall be made pursuant
4 to a warrant obtained in the same manner as provided for
5 a search warrant under the Federal Rules of Criminal Pro-
6 cedure, except that a seizure may be made without a war-
7 rant if—

8 “(A) a complaint for forfeiture has been filed in the
9 United States district court and the court issued an arrest
10 warrant in rem pursuant to the Supplemental Rules for
11 Certain Admiralty and Maritime Claims;

12 “(B) there is probable cause to believe that the property
13 is subject to forfeiture and—

14 “(i) the seizure is made pursuant to a lawful arrest
15 or search; or

16 “(ii) another exception to the Fourth Amendment
17 warrant requirement would apply; or

18 “(C) the property was lawfully seized by a State or local
19 law enforcement agency and transferred to a Federal agen-
20 cy.

21 “(3) Notwithstanding rule 41(a) of the Federal Rules of
22 Criminal Procedure, a seizure warrant may be issued pur-
23 suant to this subsection by a judicial officer in any district
24 in which a forfeiture action against the property may be
25 filed under section 1355(b) of title 28, and may be exe-
26 cuted in any district in which the property is found, or
27 transmitted to the central authority of any foreign state for
28 service in accordance with any treaty or other international
29 agreement. Any motion for the return of property seized
30 under this section shall be filed in the district court in
31 which the seizure warrant was issued or in the district
32 court for the district in which the property was seized.

33 “(4)(A) If any person is arrested or charged in a foreign
34 country in connection with an offense that would give rise
35 to the forfeiture of property in the United States under this
36 section or under the Controlled Substances Act, the Attor-
37 ney General may apply to any Federal judge or magistrate

1 judge in the district in which the property is located for an
2 ex parte order restraining the property subject to forfeiture
3 for not more than 30 days, except that the time may be
4 extended for good cause shown at a hearing conducted in
5 the manner provided in rule 43(e) of the Federal Rules of
6 Civil Procedure.

7 “(B) The application for the restraining order shall set
8 forth the nature and circumstances of the foreign charges
9 and the basis for belief that the person arrested or charged
10 has property in the United States that would be subject to
11 forfeiture, and shall contain a statement that the restrain-
12 ing order is needed to preserve the availability of property
13 for such time as is necessary to receive evidence from the
14 foreign country or elsewhere in support of probable cause
15 for the seizure of the property under this subsection.

16 “(b) SECURING OF PROPERTY.—Property taken or detained
17 under this section shall not be repleviable, but shall be deemed
18 to be in the custody of the Attorney General, the Secretary of
19 the Treasury, or the Postal Service, as the case may be, subject
20 only to the orders and decrees of the court or the official hav-
21 ing jurisdiction thereof. Whenever property is seized under this
22 subsection, the Attorney General, the Secretary of the Treas-
23 ury, or the Postal Service, as the case may be, may—

24 “(1) place the property under seal;

25 “(2) remove the property to a place designated by him;

26 or

27 “(3) require that the General Services Administration
28 take custody of the property and remove it, if practicable,
29 to an appropriate location for disposition in accordance
30 with law.

31 “(c) APPLICATION OF CUSTOMS LAWS.—For purposes of
32 this section, the provisions of the customs laws relating to the
33 seizure, summary and judicial forfeiture, condemnation of prop-
34 erty for violation of the customs laws, the disposition of such
35 property or the proceeds from the sale of such property under
36 this section, the remission or mitigation of such forfeitures, and
37 the compromise of claims (19 U.S.C. 1602 et seq.), insofar as

1 they are applicable and not inconsistent with the provisions of
2 this section, shall apply to seizures and forfeitures incurred, or
3 alleged to have been incurred, under this section, except that
4 such duties as are imposed upon the customs officer or any
5 other person with respect to the seizure and forfeiture of prop-
6 erty under the customs laws shall be performed with respect to
7 seizures and forfeitures of property under this section by such
8 officers, agents, or other persons as may be authorized or des-
9 igned for that purpose by the Attorney General, the Secretary
10 of the Treasury, or the Postal Service, as the case may be. The
11 Attorney General shall have sole responsibility for disposing of
12 petitions for remission or mitigation with respect to property
13 involved in a judicial forfeiture proceeding.

14 “(d) RETENTION OR TRANSFER OF FORFEITED PROP-
15 erty.—Notwithstanding any other provision of the law, except
16 section 3 of the Anti Drug Abuse Act of 1986, the Attorney
17 General, the Secretary of the Treasury, or the Postal Service,
18 as the case may be, is authorized to retain property forfeited
19 pursuant to this section, or to transfer such property on such
20 terms and conditions as the Attorney General may determine—

21 “(1) to any other Federal agency;

22 “(2) to any State or local law enforcement agency which
23 participated directly in any of the acts which led to the sei-
24 zure or forfeiture of the property;

25 “(3) in the case of property referred to in subsection
26 (a)(1)(C), to any Federal financial institution regulatory
27 agency—

28 “(A) to reimburse the agency for payments to claim-
29 ants or creditors of the institution; and

30 “(B) to reimburse the insurance fund of the agency
31 for losses suffered by the fund as a result of the receiv-
32 ership or liquidation;

33 “(4) in the case of property referred to in subsection
34 (a)(1)(C), upon the order of the appropriate Federal finan-
35 cial institution regulatory agency, to the financial institu-
36 tion as restitution, with the value of the property so trans-
37 ferred to be set off against any amount later recovered by

1 the financial institution as compensatory damages in any
2 State or Federal proceeding;

3 “(5) in the case of property referred to in subsection
4 (a)(1)(C), to any Federal financial institution regulatory
5 agency, to the extent of the agency’s contribution of re-
6 sources to, or expenses involved in, the seizure and for-
7 feiture, and the investigation leading directly to the seizure
8 and forfeiture, of such property;

9 “(6) as restoration to any victim of the offense giving
10 rise to the forfeiture, including, in the case of a money
11 laundering offense, any offense constituting the underlying
12 specified unlawful activity; or

13 “(7) In the case of property referred to in subsection
14 (a)(1)(D), to the Resolution Trust Corporation, the Federal
15 Deposit Insurance Corporation, or any other Federal finan-
16 cial institution regulatory agency (as defined in section
17 8(e)(7)(D) of the Federal Deposit Insurance Act).

18 The Attorney General, the Secretary of the Treasury, or the
19 Postal Service, as the case may be, shall ensure the equitable
20 transfer pursuant to paragraph (2) of any forfeited property to
21 the appropriate State or local law enforcement agency so as to
22 reflect generally the contribution of any such agency partici-
23 pating directly in any of the acts which led to the seizure or
24 forfeiture of such property. A decision by the Attorney General,
25 the Secretary of the Treasury, or the Postal Service pursuant
26 to paragraph (2) shall not be subject to review. The United
27 States shall not be liable in any action arising out of the use
28 of any property the custody of which was transferred pursuant
29 to this section to any non-Federal agency. The Attorney Gen-
30 eral, the Secretary of the Treasury, or the Postal Service may
31 order the discontinuance of any forfeiture proceedings under
32 this section in favor of the institution of forfeiture proceedings
33 by State or local authorities under an appropriate State or local
34 statute. After the filing of a complaint for forfeiture under this
35 section, the Attorney General may seek dismissal of the com-
36 plaint in favor of forfeiture proceedings under State or local
37 law. Whenever forfeiture proceedings are discontinued by the

1 United States in favor of State or local proceedings, the United
2 States may transfer custody and possession of the seized prop-
3 erty to the appropriate State or local official immediately upon
4 the initiation of the proper actions by such officials. Whenever
5 forfeiture proceedings are discontinued by the United States in
6 favor of State or local proceedings, notice shall be sent to all
7 known interested parties advising them of the discontinuance or
8 dismissal. The United States shall not be liable in any action
9 arising out of the seizure, detention, and transfer of seized
10 property to State or local officials. The United States shall not
11 be liable in any action arising out of a transfer under para-
12 graph (3), (4), or (5) of this subsection.

13 “(e) STAYS.—

14 “(1) Upon the motion of the United States, the court
15 shall stay the civil forfeiture proceeding if the court deter-
16 mines that civil discovery will adversely affect the ability of
17 the Government to conduct a related criminal investigation
18 or the prosecution of a related criminal case.

19 “(2) Upon the motion of a claimant, the court shall stay
20 the civil forfeiture proceeding with respect to that claimant
21 if the court determines that—

22 “(A) the claimant is the subject of a related criminal
23 investigation or case;

24 “(B) the claimant has standing to assert a claim in
25 the civil forfeiture proceeding; and

26 “(C) continuation of the forfeiture proceeding will
27 burden the right of the claimant against self-incrimina-
28 tion in the related investigation or case.

29 “(3) With respect to the impact of civil discovery de-
30 scribed in paragraphs (1) and (2), the court may determine
31 that a stay is unnecessary if a protective order limiting dis-
32 covery would protect the interest of one party without un-
33 fairly limiting the ability of the opposing party to pursue
34 the civil case. In no case, however, shall the court impose
35 a protective order as an alternative to a stay if the effect
36 of such protective order would be to allow one party to pur-

1 sue discovery while the other party is substantially unable
2 to do so.

3 “(4) In this subsection, the terms ‘related criminal case’
4 and ‘related criminal 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 a criminal case or in-
8 vestigation is ‘related’ to a civil forfeiture proceeding, the
9 court shall consider the degree of similarity between the
10 parties, witnesses, facts, and circumstances involved in the
11 two proceedings, without requiring an identity with respect
12 to any one or more factors.

13 “(5) In requesting a stay under paragraph (1), the Gov-
14 ernment may, in appropriate cases, submit evidence ex
15 parte in order to avoid disclosing any matter that may ad-
16 versely affect an ongoing criminal investigation or pending
17 criminal trial.

18 “(6) Whenever a civil forfeiture proceeding is stayed pur-
19 suant to this subsection, the court shall enter any order
20 necessary to preserve the value of the property or to protect
21 the rights of lienholders or other persons with an interest
22 in the property while the stay is in effect.

23 “(7) A determination by the court that the claimant has
24 standing to request a stay pursuant to paragraph (2) shall
25 apply only to this subsection and shall not preclude the
26 Government from objecting to the standing of the claimant
27 by dispositive motion or at the time of trial.

28 “(f) VENUE.—In addition to the venue provided for in sec-
29 tion 1395 of title 28 or any other provision of law, in the case
30 of property of a defendant charged with a violation that is the
31 basis for forfeiture of the property under this section, a pro-
32 ceeding for forfeiture under this section may be brought in the
33 judicial district in which the defendant owning such property
34 is found or in the judicial district in which the criminal pros-
35 ecution is brought.

36 “(g) DISPOSITION.—

1 “(1) Whenever property is civilly or criminally forfeited
2 under this subchapter, the Attorney General or the Sec-
3 retary of the Treasury, as the case may be, may transfer
4 the forfeited personal property or the proceeds of the sale
5 of any forfeited personal or real property to any foreign
6 country which participated directly or indirectly in the sei-
7 zure or forfeiture of the property, if such a transfer—

8 “(A) has been agreed to by the Secretary of State;

9 “(B) is authorized in an international agreement be-
10 tween the United States and the foreign country; and

11 “(C) is made to a country which, if applicable, has
12 been certified under section 481(h) of the Foreign As-
13 sistance Act of 1961.

14 A decision by the Attorney General or the Secretary of the
15 Treasury pursuant to this paragraph shall not be subject
16 to review. The foreign country shall, in the event of a
17 transfer of property or proceeds of sale of property under
18 this subsection, bear all expenses incurred by the United
19 States in the seizure, maintenance, inventory, storage, for-
20 feiture, and disposition of the property, and all transfer
21 costs. The payment of all such expenses, and the transfer
22 of assets pursuant to this paragraph, shall be upon such
23 terms and conditions as the Attorney General or the Sec-
24 retary of the Treasury may, in his discretion, set.

25 “(2) This section does not limit or supersede any other
26 authority of the United States to provide assistance to a
27 foreign country in obtaining property related to a crime
28 committed in the foreign country, including property which
29 is sought as evidence of a crime committed in the foreign
30 country.

31 “(3) A certified order or judgment of forfeiture by a
32 court of competent jurisdiction of a foreign country con-
33 cerning property which is the subject of forfeiture under
34 this section and was determined by such court to be the
35 type of property described in subsection (a)(1)(B) of this
36 section, and any certified recordings or transcripts of testi-
37 mony taken in a foreign judicial proceeding concerning

1 such order or judgment of forfeiture, shall be admissible in
2 evidence in a proceeding brought pursuant to this section.
3 Such certified order or judgment of forfeiture, when admit-
4 ted into evidence, shall constitute probable cause that the
5 property forfeited by such order or judgment of forfeiture
6 is subject to forfeiture under this section and creates a re-
7 buttable presumption of the forfeitability of such property
8 under this section.

9 “(4) A certified order or judgment of conviction by a
10 court of competent jurisdiction of a foreign country con-
11 cerning an unlawful drug activity which gives rise to for-
12 feiture under this section and any certified recordings or
13 transcripts of testimony taken in a foreign judicial pro-
14 ceeding concerning such order or judgment of conviction
15 shall be admissible in evidence in a proceeding brought pur-
16 suant to this section. Such certified order or judgment of
17 conviction, when admitted into evidence, creates a rebut-
18 table presumption that the unlawful drug activity giving
19 rise to forfeiture under this section has occurred.

20 “(5) Paragraphs (3) and (4) do not limit the admissi-
21 bility of any evidence otherwise admissible, or the ability of
22 the United States to establish probable cause that property
23 is subject to forfeiture by any evidence otherwise admis-
24 sible.

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

26 “(1) the term ‘Attorney General’ means the Attorney
27 General or his delegate; and

28 “(2) the term ‘Secretary of the Treasury’ means the Sec-
29 retary of the Treasury or his delegate.

30 “(i) INTERBANK ACCOUNTS.—

31 “(1) IN GENERAL.—

32 “(A) IN GENERAL.—For the purpose of a forfeiture
33 under this section or under the Controlled Substances
34 Act (21 U.S.C. 801 et seq.), if funds are deposited into
35 an account at a foreign financial institution, and that
36 foreign financial institution has an interbank account
37 in the United States with a covered financial institution

1 (as defined in section 5318(j)(1) of title 31), the funds
2 shall be deemed to have been deposited into the inter-
3 bank account in the United States, and any restraining
4 order, seizure warrant, or arrest warrant in rem re-
5 garding the funds may be served on the covered finan-
6 cial institution, and funds in the interbank account, up
7 to the value of the funds deposited into the account at
8 the foreign financial institution, may be restrained,
9 seized, or arrested.

10 “(B) AUTHORITY TO SUSPEND.—The Attorney Gen-
11 eral, in consultation with the Secretary of the Treas-
12 ury, may suspend or terminate a forfeiture under this
13 section if the Attorney General determines that a con-
14 flict of law exists between the laws of the jurisdiction
15 in which the foreign financial institution is located and
16 the laws of the United States with respect to liabilities
17 arising from the restraint, seizure, or arrest of such
18 funds, and that such suspension or termination would
19 be in the interest of justice and would not harm the na-
20 tional interests of the United States.

21 “(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE
22 FUNDS.—If a forfeiture action is brought against funds
23 that are restrained, seized, or arrested under paragraph
24 (1), it shall not be necessary for the Government to estab-
25 lish that the funds are directly traceable to the funds that
26 were deposited into the foreign financial institution, nor
27 shall it be necessary for the Government to rely on the ap-
28 plication of section 2554.

29 “(3) CLAIMS BROUGHT BY OWNER OF THE FUNDS.—If
30 a forfeiture action is instituted against funds restrained,
31 seized, or arrested under paragraph (1), the owner of the
32 funds deposited into the account at the foreign financial in-
33 stitution may contest the forfeiture by filing a claim under
34 section 2553.

35 “(4) DEFINITIONS.—For purposes of this subsection, the
36 following definitions shall apply:

1 “(A) INTERBANK ACCOUNT.—The term ‘interbank
2 account’ has the same meaning as in section
3 2554(c)(2)(B).

4 “(B) OWNER.—

5 “(i) IN GENERAL.—Except as provided in clause
6 (ii), the term ‘owner’—

7 “(I) means the person who was the owner, as
8 that term is defined in section 2553(d)(6), of
9 the funds that were deposited into the foreign
10 financial institution at the time such funds
11 were deposited; and

12 “(II) does not include either the foreign fi-
13 nancial institution or any financial institution
14 acting as an intermediary in the transfer of the
15 funds into the interbank account.

16 “(ii) EXCEPTION.—The foreign financial institu-
17 tion may be considered the ‘owner’ of the funds
18 (and no other person shall qualify as the owner of
19 such funds) only if—

20 “(I) the basis for the forfeiture action is
21 wrongdoing committed by the foreign financial
22 institution; or

23 “(II) the foreign financial institution estab-
24 lishes, by a preponderance of the evidence, that
25 prior to the restraint, seizure, or arrest of the
26 funds, the foreign financial institution had dis-
27 charged all or part of its obligation to the prior
28 owner of the funds, in which case the foreign
29 financial institution shall be deemed the owner
30 of the funds to the extent of such discharged
31 obligation.

32 “(C) FOREIGN FINANCIAL INSTITUTION.—The term
33 ‘foreign financial institution’ includes a foreign bank as
34 defined in section 1(b)(7) of the International Banking
35 Act of 1978.

1 **“§ 2553. General rules for civil forfeiture pro-**
2 **ceedings**

3 “(a) NOTICE; CLAIM; COMPLAINT.—

4 “(1)(A)(i) Except as provided in clauses (ii) through (v),
5 in any nonjudicial civil forfeiture proceeding under a civil
6 forfeiture statute, with respect to which the Government is
7 required to send written notice to interested parties, such
8 notice shall be sent in a manner to achieve proper notice
9 as soon as practicable, and in no case more than 60 days
10 after the date of the seizure.

11 “(ii) No notice is required if, before the 60-day period
12 expires, the Government files a civil judicial forfeiture ac-
13 tion against the property and provides notice of that action
14 as required by law.

15 “(iii) If, before the 60-day period expires, the Govern-
16 ment does not file a civil judicial forfeiture action, but does
17 obtain a criminal indictment containing an allegation that
18 the property is subject to forfeiture, the Government shall
19 either—

20 “(I) send notice within the 60 days and continue the
21 nonjudicial civil forfeiture proceeding under this sec-
22 tion; or

23 “(II) terminate the nonjudicial civil forfeiture pro-
24 ceeding, and take the steps necessary to preserve its
25 right to maintain custody of the property as provided
26 in the applicable criminal forfeiture statute.

27 “(iv) In a case in which the property is seized by a State
28 or local law enforcement agency and turned over to a Fed-
29 eral law enforcement agency for the purpose of forfeiture
30 under Federal law, notice shall be sent not more than 90
31 days after the date of seizure by the State or local law en-
32 forcement agency.

33 “(v) If the identity or interest of a party is not deter-
34 mined until after the seizure or turnover but is determined
35 before a declaration of forfeiture is entered, notice shall be
36 sent to such interested party not later than 60 days after

1 the determination by the Government of the identity of the
2 party or the party's interest.

3 “(B) A supervisory official in the headquarters office of
4 the seizing agency may extend the period for sending notice
5 under subparagraph (A) for a period not to exceed 30 days
6 (which period may not be further extended except by a
7 court), if the official determines that the conditions in sub-
8 paragraph (D) are present.

9 “(C) Upon motion by the Government, a court may ex-
10 tend the period for sending notice under subparagraph (A)
11 for a period not to exceed 60 days, which period may be
12 further extended by the court for 60-day periods, as nec-
13 essary, if the court determines, based on a written certifi-
14 cation of a supervisory official in the headquarters office of
15 the seizing agency, that the conditions in subparagraph (D)
16 are present.

17 “(D) The period for sending notice under this paragraph
18 may be extended only if there is reason to believe that no-
19 tice may have an adverse result, including—

20 “(i) endangering the life or physical safety of an in-
21 dividual;

22 “(ii) flight from prosecution;

23 “(iii) destruction of or tampering with evidence;

24 “(iv) intimidation of potential witnesses; or

25 “(v) otherwise seriously jeopardizing an investigation
26 or unduly delaying a trial.

27 “(E) Each of the Federal seizing agencies conducting
28 nonjudicial forfeitures under this section shall report peri-
29 odically to the Committees on the Judiciary of the House
30 of Representatives and the Senate the number of occasions
31 when an extension of time is granted under subparagraph
32 (B).

33 “(F) If the Government does not send notice of a seizure
34 of property in accordance with subparagraph (A) to the
35 person from whom the property was seized, and no exten-
36 sion of time is granted, the Government shall return the
37 property to that person without prejudice to the right of

1 the Government to commence a forfeiture proceeding at a
2 later time. The Government shall not be required to return
3 contraband or other property that the person from whom
4 the property was seized may not legally possess.

5 “(2)(A) Any person claiming property seized in a non-
6 judicial civil forfeiture proceeding under a civil forfeiture
7 statute may file a claim with the appropriate official after
8 the seizure.

9 “(B) A claim under subparagraph (A) may be filed not
10 later than the deadline set forth in a personal notice letter
11 (which deadline may be not earlier than 35 days after the
12 date the letter is mailed), except that if that letter is not
13 received, then a claim may be filed not later than 30 days
14 after the date of final publication of notice of seizure.

15 “(C) A claim shall—

16 “(i) identify the specific property being claimed;

17 “(ii) state the claimant’s interest in such property;

18 and

19 “(iii) be made under oath, subject to penalty of per-
20 jury.

21 “(D) A claim need not be made in any particular form.
22 Each Federal agency conducting nonjudicial forfeitures
23 under this section shall make claim forms generally avail-
24 able on request, which forms shall be written in easily un-
25 derstandable language.

26 “(E) Any person may make a claim under subparagraph
27 (A) without posting bond with respect to the property
28 which is the subject of the claim.

29 “(3)(A) Not later than 90 days after a claim has been
30 filed, the Government shall file a complaint for forfeiture
31 in the manner set forth in the Supplemental Rules for Cer-
32 tain Admiralty and Maritime Claims or return the property
33 pending the filing of a complaint, except that a court in the
34 district in which the complaint will be filed may extend the
35 period for filing a complaint for good cause shown or upon
36 agreement of the parties.

37 “(B) If the Government does not—

1 “(i) file a complaint for forfeiture or return the prop-
2 erty, in accordance with subparagraph (A); or

3 “(ii) before the time for filing a complaint has ex-
4 pired—

5 “(I) obtain a criminal indictment containing an
6 allegation that the property is subject to forfeiture;
7 and

8 “(II) take the steps necessary to preserve its
9 right to maintain custody of the property as pro-
10 vided in the applicable criminal forfeiture statute,
11 the Government shall promptly release the property pursu-
12 ant to regulations promulgated by the Attorney General,
13 and may not take any further action to effect the civil for-
14 feiture of such property in connection with the underlying
15 offense.

16 “(C) In lieu of, or in addition to, filing a civil forfeiture
17 complaint, the Government may include a forfeiture allega-
18 tion in a criminal indictment. If criminal forfeiture is the
19 only forfeiture proceeding commenced by the Government,
20 the Government’s right to continued possession of the prop-
21 erty shall be governed by the applicable criminal forfeiture
22 statute.

23 “(D) No complaint may be dismissed on the ground that
24 the Government did not have adequate evidence at the time
25 the complaint was filed to establish the forfeitability of the
26 property.

27 “(4)(A) In any case in which the Government files in the
28 appropriate United States district court a complaint for
29 forfeiture of property, any person claiming an interest in
30 the seized property may file a claim asserting such person’s
31 interest in the property in the manner set forth in the Sup-
32 plemental Rules for Certain Admiralty and Maritime
33 Claims, except that such claim may be filed not later than
34 30 days after the date of service of the Government’s com-
35 plaint or, as applicable, not later than 30 days after the
36 date of final publication of notice of the filing of the com-
37 plaint.

1 “(B) A person asserting an interest in seized property,
2 in accordance with subparagraph (A), shall file an answer
3 to the Government’s complaint for forfeiture not later than
4 20 days after the date of the filing of the claim.

5 “(b) REPRESENTATION.—

6 “(1)(A) If a person with standing to contest the for-
7 feiture of property in a judicial civil forfeiture proceeding
8 under a civil forfeiture statute is financially unable to ob-
9 tain representation by counsel, and the person is rep-
10 resented by counsel appointed under section 3006A of this
11 title in connection with a related criminal case, the court
12 may authorize counsel to represent that person with respect
13 to the claim.

14 “(B) In determining whether to authorize counsel to rep-
15 resent a person under subparagraph (A), the court shall
16 take into account such factors as—

17 “(i) the person’s standing to contest the forfeiture;
18 and

19 “(ii) whether the claim appears to be made in good
20 faith.

21 “(2)(A) If a person with standing to contest the for-
22 feiture of property in a judicial civil forfeiture proceeding
23 under a civil forfeiture statute is financially unable to ob-
24 tain representation by counsel, and the property subject to
25 forfeiture is real property that is being used by the person
26 as a primary residence, the court, at the request of the per-
27 son, shall insure that the person is represented by an attor-
28 ney for the Legal Services Corporation with respect to the
29 claim.

30 “(B)(i) At appropriate times during a representation
31 under subparagraph (A), the Legal Services Corporation
32 shall submit a statement of reasonable attorney fees and
33 costs to the court.

34 “(ii) The court shall enter a judgment in favor of the
35 Legal Services Corporation for reasonable attorney fees and
36 costs submitted pursuant to clause (i) and treat such judg-

1 ment as payable under section 2465 of title 28, United
2 States Code, regardless of the outcome of the case.

3 “(3) The court shall set the compensation for representa-
4 tion under this subsection, which shall be equivalent to that
5 provided for court-appointed representation under section
6 3006A of this title.

7 “(c) BURDEN OF PROOF.—In a suit or action brought under
8 any civil forfeiture statute for the civil forfeiture of any prop-
9 erty—

10 “(1) the burden of proof is on the Government to estab-
11 lish, by a preponderance of the evidence, that the property
12 is subject to forfeiture;

13 “(2) the Government may use evidence gathered after
14 the filing of a complaint for forfeiture to establish, by a
15 preponderance of the evidence, that property is subject to
16 forfeiture; and

17 “(3) if the Government’s theory of forfeiture is that the
18 property was used to commit or facilitate the commission
19 of a criminal offense, or was involved in the commission of
20 a criminal offense, the Government shall establish that
21 there was a substantial connection between the property
22 and the offense.

23 “(d) INNOCENT OWNER DEFENSE.—

24 “(1) An innocent owner’s interest in property shall not
25 be forfeited under any civil forfeiture statute. The claimant
26 shall have the burden of proving that the claimant is an in-
27 nocent owner by a preponderance of the evidence.

28 “(2)(A) With respect to a property interest in existence
29 at the time the illegal conduct giving rise to forfeiture took
30 place, the term ‘innocent owner’ means an owner who—

31 “(i) did not know of the conduct giving rise to for-
32 feiture; or

33 “(ii) upon learning of the conduct giving rise to the
34 forfeiture, did all that reasonably could be expected
35 under the circumstances to terminate such use of the
36 property.

1 “(B)(i) For the purposes of this paragraph, ways in
2 which a person may show that such person did all that rea-
3 sonably could be expected may include demonstrating that
4 such person, to the extent permitted by law—

5 “(I) gave timely notice to an appropriate law en-
6 forcement agency of information that led the person to
7 know the conduct giving rise to a forfeiture would
8 occur or has occurred; and

9 “(II) in a timely fashion revoked or made a good
10 faith attempt to revoke permission for those engaging
11 in such conduct to use the property or took reasonable
12 actions in consultation with a law enforcement agency
13 to discourage or prevent the illegal use of the property.

14 “(ii) A person is not required by this subparagraph to
15 take steps that the person reasonably believes would be
16 likely to subject any person (other than the person whose
17 conduct gave rise to the forfeiture) to physical danger.

18 “(3)(A) With respect to a property interest acquired
19 after the conduct giving rise to the forfeiture has taken
20 place, the term ‘innocent owner’ means a person who, at
21 the time that person acquired the interest in the prop-
22 erty—

23 “(i) was a bona fide purchaser or seller for value (in-
24 cluding a purchaser or seller of goods or services for
25 value); and

26 “(ii) did not know and was reasonably without cause
27 to believe that the property was subject to forfeiture.

28 “(B) An otherwise valid claim under subparagraph (A)
29 shall not be denied on the ground that the claimant gave
30 nothing of value in exchange for the property if—

31 “(i) the property is the primary residence of the
32 claimant;

33 “(ii) depriving the claimant of the property would de-
34 prive the claimant of the means to maintain reasonable
35 shelter in the community for the claimant and all de-
36 pendents residing with the claimant;

1 “(iii) the property is not, and is not traceable to, the
2 proceeds of any criminal offense; and

3 “(iv) the claimant acquired his or her interest in the
4 property through marriage, divorce, or legal separation,
5 or the claimant was the spouse or legal dependent of
6 a person whose death resulted in the transfer of the
7 property to the claimant through inheritance or pro-
8 bate,

9 except that the court shall limit the value of any real prop-
10 erty interest for which innocent ownership is recognized
11 under this subparagraph to the value necessary to maintain
12 reasonable shelter in the community for such claimant and
13 all dependents residing with the claimant.

14 “(4) Notwithstanding any provision of this subsection, no
15 person may assert an ownership interest under this sub-
16 section in contraband or other property that it is illegal to
17 possess.

18 “(5) If the court determines, in accordance with this sec-
19 tion, that an innocent owner has a partial interest in prop-
20 erty otherwise subject to forfeiture, or a joint tenancy or
21 tenancy by the entirety in such property, the court may
22 enter an appropriate order—

23 “(A) severing the property;

24 “(B) transferring the property to the Government
25 with a provision that the Government compensate the
26 innocent owner to the extent of his or her ownership
27 interest once a final order of forfeiture has been en-
28 tered and the property has been reduced to liquid as-
29 sets; or

30 “(C) permitting the innocent owner to retain the
31 property subject to a lien in favor of the Government
32 to the extent of the forfeitable interest in the property.

33 “(6) In this subsection, the term ‘owner’—

34 “(A) means a person with an ownership interest in
35 the specific property sought to be forfeited, including a
36 leasehold, lien, mortgage, recorded security interest, or
37 valid assignment of an ownership interest; and

1 “(B) does not include—

2 “(i) a person with only a general unsecured in-
3 terest in, or claim against, the property or estate
4 of another;

5 “(ii) a bailee unless the bailor is identified and
6 the bailee shows a colorable legitimate interest in
7 the property seized; or

8 “(iii) a nominee who exercises no dominion or
9 control over the property.

10 “(e) MOTION TO SET ASIDE FORFEITURE.—

11 “(1) Any person entitled to written notice in any non-
12 judicial civil forfeiture proceeding under a civil forfeiture
13 statute who does not receive such notice may file a motion
14 to set aside a declaration of forfeiture with respect to that
15 person’s interest in the property, which motion shall be
16 granted if—

17 “(A) the Government knew, or reasonably should
18 have known, of the moving party’s interest and failed
19 to take reasonable steps to provide such party with no-
20 tice; and

21 “(B) the moving party did not know or have reason
22 to know of the seizure within sufficient time to file a
23 timely claim.

24 “(2)(A) Notwithstanding the expiration of any applicable
25 statute of limitations, if the court grants a motion under
26 paragraph (1), the court shall set aside the declaration of
27 forfeiture as to the interest of the moving party without
28 prejudice to the right of the Government to commence a
29 subsequent forfeiture proceeding as to the interest of the
30 moving party.

31 “(B) Any proceeding described in subparagraph (A) shall
32 be commenced—

33 “(i) if nonjudicial, within 60 days of the entry of the
34 order granting the motion; or

35 “(ii) if judicial, within 6 months of the entry of the
36 order granting the motion.

1 “(3) A motion under paragraph (1) may be filed not
2 later than 5 years after the date of final publication of no-
3 tice of seizure of the property.

4 “(4) If, at the time a motion made under paragraph (1)
5 is granted, the forfeited property has been disposed of by
6 the Government in accordance with law, the Government
7 may institute proceedings against a substitute sum of
8 money equal to the value of the moving party’s interest in
9 the property at the time the property was disposed of.

10 “(5) A motion filed under this subsection shall be the ex-
11 clusive remedy for seeking to set aside a declaration of for-
12 feiture under a civil forfeiture statute.

13 “(f) RELEASE OF SEIZED PROPERTY.—

14 “(1) A claimant under subsection (a) is entitled to imme-
15 diate release of seized property if—

16 “(A) the claimant has a possessory interest in the
17 property;

18 “(B) the claimant has sufficient ties to the commu-
19 nity to provide assurance that the property will be
20 available at the time of the trial;

21 “(C) the continued possession by the Government
22 pending the final disposition of forfeiture proceedings
23 will cause substantial hardship to the claimant, such as
24 preventing the functioning of a business, preventing an
25 individual from working, or leaving an individual home-
26 less;

27 “(D) the claimant’s likely hardship from the contin-
28 ued possession by the Government of the seized prop-
29 erty outweighs the risk that the property will be de-
30 stroyed, damaged, lost, concealed, or transferred if it is
31 returned to the claimant during the pendency of the
32 proceeding; and

33 “(E) none of the conditions set forth in paragraph
34 (8) applies.

35 “(2) A claimant seeking release of property under this
36 subsection must request possession of the property from

1 the appropriate official, and the request must set forth the
2 basis on which the requirements of paragraph (1) are met.

3 “(3)(A) If not later than 15 days after the date of a re-
4 quest under paragraph (2) the property has not been re-
5 leased, the claimant may file a petition in the district court
6 in which the complaint has been filed or, if no complaint
7 has been filed, in the district court in which the seizure
8 warrant was issued or in the district court for the district
9 in which the property was seized.

10 “(B) The petition described in subparagraph (A) shall
11 set forth—

12 “(i) the basis on which the requirements of para-
13 graph (1) are met; and

14 “(ii) the steps the claimant has taken to secure re-
15 lease of the property from the appropriate official.

16 “(4) If the Government establishes that the claimant’s
17 claim is frivolous, the court shall deny the petition. In re-
18 sponding to a petition under this subsection on other
19 grounds, the Government may in appropriate cases submit
20 evidence ex parte in order to avoid disclosing any matter
21 that may adversely affect an ongoing criminal investigation
22 or pending criminal trial.

23 “(5) The court shall render a decision on a petition filed
24 under paragraph (3) not later than 30 days after the date
25 of the filing, unless such 30-day limitation is extended by
26 consent of the parties or by the court for good cause
27 shown.

28 “(6) If—

29 “(A) a petition is filed under paragraph (3); and

30 “(B) the claimant demonstrates that the require-
31 ments of paragraph (1) have been met,

32 the district court shall order that the property be returned
33 to the claimant, pending completion of proceedings by the
34 Government to obtain forfeiture of the property.

35 “(7) If the court grants a petition under paragraph
36 (3)—

1 “(A) the court may enter any order necessary to en-
2 sure that the value of the property is maintained while
3 the forfeiture action is pending, including—

4 “(i) permitting the inspection, photographing,
5 and inventory of the property;

6 “(ii) fixing a bond in accordance with rule E(5)
7 of the Supplemental Rules for Certain Admiralty
8 and Maritime Claims; and

9 “(iii) requiring the claimant to obtain or main-
10 tain insurance on the subject property; and

11 “(B) the Government may place a lien against the
12 property or file a lis pendens to ensure that the prop-
13 erty is not transferred to another person.

14 “(8) This subsection shall not apply if the seized prop-
15 erty—

16 “(A) is contraband, currency, or other monetary in-
17 strument, or electronic funds unless such currency or
18 other monetary instrument or electronic funds con-
19 stitutes the assets of a legitimate business which has
20 been seized;

21 “(B) is to be used as evidence of a violation of the
22 law;

23 “(C) by reason of design or other characteristic, is
24 particularly suited for use in illegal activities; or

25 “(D) is likely to be used to commit additional crimi-
26 nal acts if returned to the claimant.

27 “(g) PROPORTIONALITY.—

28 “(1) The claimant under subsection (a)(4) may petition
29 the court to determine whether the forfeiture was constitu-
30 tionally excessive.

31 “(2) In making this determination, the court shall com-
32 pare the forfeiture to the gravity of the offense giving rise
33 to the forfeiture.

34 “(3) The claimant shall have the burden of establishing
35 that the forfeiture is grossly disproportional by a prepon-
36 derance of the evidence at a hearing conducted by the court
37 without a jury.

1 “(4) If the court finds that the forfeiture is grossly dis-
2 proportional to the offense it shall reduce or eliminate the
3 forfeiture as necessary to avoid a violation of the Excessive
4 Fines Clause of the Eighth Amendment of the Constitu-
5 tion.

6 “(h) CIVIL FINE.—

7 “(1) In any civil forfeiture proceeding under a civil for-
8 feiture statute in which the Government prevails, if the
9 court finds that the claimant’s assertion of an interest in
10 the property was frivolous, the court may impose a civil
11 fine on the claimant of an amount equal to 10 percent of
12 the value of the forfeited property, but in no event shall the
13 fine be less than \$250 or greater than \$5,000.

14 “(2) Any civil fine imposed under this subsection shall
15 not preclude the court from imposing sanctions under rule
16 11 of the Federal Rules of Civil Procedure.

17 “(3) In addition to the limitations of section 1915 of title
18 28, United States Code, in no event shall a prisoner file a
19 claim under a civil forfeiture statute or appeal a judgment
20 in a civil action or proceeding based on a civil forfeiture
21 statute if the prisoner has, on three or more prior occa-
22 sions, while incarcerated or detained in any facility,
23 brought an action or appeal in a court of the United States
24 that was dismissed on the grounds that it is frivolous or
25 malicious, unless the prisoner shows extraordinary and ex-
26 ceptional circumstances.

27 “(i) CIVIL FORFEITURE STATUTE DEFINED.—In this sec-
28 tion, the term ‘civil forfeiture statute’—

29 “(1) means any provision of Federal law providing for
30 the forfeiture of property other than as a sentence imposed
31 upon conviction of a criminal offense; and

32 “(2) does not include—

33 “(A) the Tariff Act of 1930 or any other provision
34 of law codified in title 19;

35 “(B) the Internal Revenue Code of 1986;

36 “(C) the Federal Food, Drug, and Cosmetic Act (21
37 U.S.C. 301 et seq.);

1 “(D) the Trading with the Enemy Act (50 U.S.C.
2 App. 1 et seq.) or the International Emergency Eco-
3 nomic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.);
4 or

5 “(E) section 1 of title VI of the Act of June 15,
6 1917 (40 Stat. 233; 22 U.S.C. 401).

7 “(j) RESTRAINING ORDERS; PROTECTIVE ORDERS.—

8 “(1) Upon application of the United States, the court
9 may enter a restraining order or injunction, require the
10 execution of satisfactory performance bonds, create receiv-
11 erships, appoint conservators, custodians, appraisers, ac-
12 countants, or trustees, or take any other action to seize, se-
13 cure, maintain, or preserve the availability of property sub-
14 ject to civil forfeiture—

15 “(A) upon the filing of a civil forfeiture complaint al-
16 leging that the property with respect to which the order
17 is sought is subject to civil forfeiture; or

18 “(B) prior to the filing of such a complaint, if, after
19 notice to persons appearing to have an interest in the
20 property and opportunity for a hearing, the court de-
21 termines that—

22 “(i) there is a substantial probability that the
23 United States will prevail on the issue of forfeiture
24 and that failure to enter the order will result in the
25 property being destroyed, removed from the juris-
26 diction of the court, or otherwise made unavailable
27 for forfeiture; and

28 “(ii) the need to preserve the availability of the
29 property through the entry of the requested order
30 outweighs the hardship on any party against whom
31 the order is to be entered.

32 “(2) An order entered pursuant to paragraph (1)(B)
33 shall be effective for not more than 90 days, unless ex-
34 tended by the court for good cause shown, or unless a com-
35 plaint described in paragraph (1)(A) has been filed.

36 “(3) A temporary restraining order under this subsection
37 may be entered upon application of the United States with-

1 out notice or opportunity for a hearing when a complaint
2 has not yet been filed with respect to the property, if the
3 United States demonstrates that there is probable cause to
4 believe that the property with respect to which the order
5 is sought is subject to civil forfeiture and that provision of
6 notice will jeopardize the availability of the property for
7 forfeiture. Such a temporary order shall expire not more
8 than 10 days after the date on which it is entered, unless
9 extended for good cause shown or unless the party against
10 whom it is entered consents to an extension for a longer
11 period. A hearing requested concerning an order entered
12 under this paragraph shall be held at the earliest possible
13 time and prior to the expiration of the temporary order.

14 “(4) The court may receive and consider, at a hearing
15 held pursuant to this subsection, evidence and information
16 that would be inadmissible under the Federal Rules of Evi-
17 dence.

18 **“§ 2554. Civil forfeiture of fungible property**

19 “(a) GENERALLY.—

20 “(1) In any forfeiture action in rem in which the subject
21 property is cash, monetary instruments in bearer form,
22 funds deposited in an account in a financial institution or
23 precious metals—

24 “(A) it shall not be necessary for the Government to
25 identify the specific property involved in the offense
26 that is the basis for the forfeiture; and

27 “(B) it shall not be a defense that the property in-
28 volved in such an offense has been removed and re-
29 placed by identical property.

30 “(2) Except as provided in subsection (b), any identical prop-
31 erty found in the same place or account as the property in-
32 volved in the offense that is the basis for the forfeiture shall
33 be subject to forfeiture under this section.

34 “(b) LIMITATION.—No action pursuant to this section to forfeit
35 property not traceable directly to the offense that is the
36 basis for the forfeiture may be commenced more than 1 year
37 from the date of the offense.

1 “(c) EXCEPTION.—

2 “(1) Subsection (a) does not apply to an action against
3 funds held by a financial institution in an interbank ac-
4 count unless the account holder knowingly engaged in the
5 offense that is the basis for the forfeiture.

6 “(2) In this subsection—

7 “(A) the term ‘financial institution’ includes a for-
8 eign bank (as defined in section 1(b)(7) of the Inter-
9 national Banking Act of 1978 (12 U.S.C. 3101(b)(7));
10 and

11 “(B) the term ‘interbank account’ means an account
12 held by one financial institution at another financial in-
13 stitution primarily for the purpose of facilitating cus-
14 tomer transactions.

15 “(d) DISCLAIMER.—Nothing in this section limits the ability
16 of the Government to forfeit property under any provision of
17 law if the property involved in the offense giving rise to the for-
18 feiture or property traceable thereto is available for forfeiture.

19 **“§ 2555. Civil forfeiture of real property**

20 “(a) JUDICIAL FORFEITURES.—Notwithstanding any other
21 provision of law, all civil forfeitures of real property and inter-
22 ests in real property shall proceed as judicial forfeitures.

23 “(b) PRELIMINARY MATTERS.—

24 “(1) Except as provided in this section—

25 “(A) real property that is the subject of a civil for-
26 feiture action shall not be seized before entry of an
27 order of forfeiture; and

28 “(B) the owners or occupants of the real property
29 shall not be evicted from, or otherwise deprived of the
30 use and enjoyment of, real property that is the subject
31 of a pending forfeiture action.

32 “(2) The filing of a lis pendens and the execution of a
33 writ of entry for the purpose of conducting an inspection
34 and inventory of the property shall not be considered a sei-
35 zure under this subsection.

36 “(c) INITIATION.—

1 “(1) The Government shall initiate a civil forfeiture ac-
2 tion against real property by—

3 “(A) filing a complaint for forfeiture;

4 “(B) posting a notice of the complaint on the prop-
5 erty; and

6 “(C) serving notice on the property owner, along
7 with a copy of the complaint.

8 “(2) If the property owner cannot be served with the no-
9 tice under paragraph (1) because the owner—

10 “(A) is a fugitive;

11 “(B) resides outside the United States and efforts at
12 service pursuant to rule 4 of the Federal Rules of Civil
13 Procedure are unavailing; or

14 “(C) cannot be located despite the exercise of due
15 diligence,

16 constructive service may be made in accordance with the
17 laws of the State in which the property is located.

18 “(3) If real property has been posted in accordance with
19 this subsection, it shall not be necessary for the court to
20 issue an arrest warrant in rem, or to take any other action
21 to establish in rem jurisdiction over the property.

22 “(d) SEIZURE PRIOR TO ENTRY OF ORDER.—

23 “(1) Real property may be seized prior to the entry of
24 an order of forfeiture if—

25 “(A) the Government notifies the court that it in-
26 tends to seize the property before trial; and

27 “(B) the court—

28 “(i) issues a notice of application for warrant,
29 causes the notice to be served on the property
30 owner and posted on the property, and conducts a
31 hearing in which the property owner has a mean-
32 ingful opportunity to be heard; or

33 “(ii) makes an ex parte determination that there
34 is probable cause for the forfeiture and that there
35 are exigent circumstances that permit the Govern-
36 ment to seize the property without prior notice and
37 an opportunity for the property owner to be heard.

1 “(2) For purposes of paragraph (1)(B)(ii), to establish
2 exigent circumstances, the Government shall show that less
3 restrictive measures such as a *lis pendens*, restraining
4 order, or bond would not suffice to protect the Govern-
5 ment’s interests in preventing the sale, destruction, or con-
6 tinued unlawful use of the real property.

7 “(e) POST-SEIZURE HEARING.—If the court authorizes a sei-
8 zure of real property under subsection (d)(1)(B)(ii), it shall
9 conduct a prompt post-seizure hearing during which the prop-
10 erty owner shall have an opportunity to contest the basis for
11 the seizure.

12 “(f) APPLICATION.—This section—

13 “(1) applies only to civil forfeitures of real property and
14 interests in real property;

15 “(2) does not apply to forfeitures of the proceeds of the
16 sale of such property or interests, or of money or other as-
17 sets intended to be used to acquire such property or inter-
18 ests; and

19 “(3) shall not affect the authority of the court to enter
20 a restraining order relating to real property.

21 **“§ 2556. Subpoenas for bank records**

22 “(a) IN GENERAL.—At any time after the commencement of
23 any action for forfeiture in rem brought by the United States
24 under section 1451, 1452, and 508 of this title, section 5322
25 or 5324 of title 31, United States Code, or the Controlled Sub-
26 stances Act, any party may request the Clerk of the Court in
27 the district in which the proceeding is pending to issue a sub-
28 poena duces tecum to any financial institution, as defined in
29 section 5312(a) of title 31, United States Code, to produce
30 books, records and any other documents at any place des-
31 ignated by the requesting party. All parties to the proceeding
32 shall be notified of the issuance of any such subpoena. The pro-
33 cedures and limitations set forth in section 2555 of this title
34 shall apply to subpoenas issued under this section.

35 “(b) SERVICE.—Service of a subpoena issued pursuant to
36 this section shall be by certified mail. Records produced in re-
37 sponse to such a subpoena may be produced in person or by

1 mail, common carrier, or such other method as may be agreed
2 upon by the party requesting the subpoena and the custodian
3 of records. The party requesting the subpoena may require the
4 custodian of records to submit an affidavit certifying the au-
5 thenticity and completeness of the records and explaining the
6 omission of any record called for in the subpoena.

7 “(c) DISCOVERY.—Nothing in this section shall preclude any
8 party from pursuing any form of discovery pursuant to the
9 Federal Rules of Civil Procedure.

10 “(d) ACCESS TO RECORDS IN BANK SECRECY JURISDIC-
11 TIONS.—

12 “(1) IN GENERAL.—In any civil forfeiture case, or in any
13 ancillary proceeding in any criminal forfeiture case gov-
14 erned by section 413(n) of the Controlled Substances Act
15 (21 U.S.C. 853(n)), in which—

16 “(A) financial records located in a foreign country
17 may be material—

18 “(i) to any claim or to the ability of the Govern-
19 ment to respond to such claim; or

20 “(ii) in a civil forfeiture case, to the ability of the
21 Government to establish the forfeitability of the
22 property; and

23 “(B) it is within the capacity of the claimant to
24 waive the claimant’s rights under applicable financial
25 secrecy laws, or to obtain the records so that such
26 records can be made available notwithstanding such se-
27 crecy laws,

28 the refusal of the claimant to provide the records in re-
29 sponse to a discovery request or to take the action nec-
30 essary otherwise to make the records available shall be
31 grounds for judicial sanctions, up to and including dis-
32 missal of the claim with prejudice.

33 “(2) PRIVILEGE.—This subsection shall not affect the
34 right of the claimant to refuse production on the basis of
35 any privilege guaranteed by the Constitution of the United
36 States or any other provision of Federal law.

1 **“§ 2557. Anti-terrorist forfeiture protection**

2 “(a) RIGHT TO CONTEST.—An owner of property that is
3 confiscated under any provision of law relating to the confisca-
4 tion of assets of suspected international terrorists, may contest
5 that confiscation by filing a claim in the manner set forth in
6 the Federal Rules of Civil Procedure (Supplemental Rules for
7 Certain Admiralty and Maritime Claims), and asserting as an
8 affirmative defense that—

9 “(1) the property is not subject to confiscation under
10 such provision of law; or

11 “(2) the innocent owner provisions of section 2553(d)
12 apply to the case.

13 “(b) EVIDENCE.—In considering a claim filed under this sec-
14 tion, a court may admit evidence that is otherwise inadmissible
15 under the Federal Rules of Evidence, if the court determines
16 that the evidence is reliable, and that compliance with the Fed-
17 eral Rules of Evidence may jeopardize the national security in-
18 terests of the United States.

19 “(c) CLARIFICATIONS.—

20 “(1) PROTECTION OF RIGHTS.—The exclusion of certain
21 provisions of Federal law from the definition of the term
22 ‘civil forfeiture statute’ in section 2553(i) shall not be con-
23 strued to deny an owner of property the right to contest
24 the confiscation of assets of suspected international terror-
25 ists under—

26 “(A) subsection (a) of this section;

27 “(B) the Constitution; or

28 “(C) subchapter II of chapter 5 of title 5, United
29 States Code (commonly known as the ‘Administrative
30 Procedure Act’).

31 “(2) SAVINGS CLAUSE.—Nothing in this section shall
32 limit or otherwise affect any other remedies that may be
33 available to an owner of property under section 2553 or
34 any other provision of law.

1 “SUBCHAPTER C—CRIMINAL FORFEITURE

“Sec.

“2561. Offenses giving rise to criminal forfeiture.

“2562. Procedures for criminal forfeiture.

2 **“§ 2561. Offenses giving rise to criminal forfeiture**

3 “(a) PROPERTY FORFEITED AT TIME OF SENTENCE.—The
4 court, when imposing a sentence on a defendant convicted of
5 an offense described in subsection (b), shall order the defend-
6 ant forfeit to the United States all forfeitable property (as de-
7 fined in section 37) related to the offense.

8 “(b) OFFENSES FOR WHICH CRIMINAL FORFEITURE IS TO
9 BE ORDERED.—The offenses for which criminal forfeiture shall
10 occur under this section are the following:

11 “(1) A violation of section 508, 1451, or 1452.

12 “(2) A violation of, or a conspiracy to violate—

13 “(A) section 644, 645, 773-775, 779, 801, 803, 804,
14 or 1003, affecting a financial institution;

15 “(B) section 614, 692-695, 697-702, 712, 717, 781,
16 783, 784, 861, 862, or 863;

17 “(C) section 654(a)(1) (relating to Federal program
18 fraud);

19 “(D) section 772 (relating to fraud and false state-
20 ments);

21 “(E) section 788 (relating to major fraud against the
22 United States);

23 “(F) section 789 (relating to concealment of assets
24 from conservator, receiver, or liquidating agent of in-
25 sured financial institution);

26 “(G) section 801 (relating to mail fraud); or

27 “(H) section 803 (relating to wire fraud),

28 involving the sale of assets acquired or held by the Resolu-
29 tion Trust Corporation, the Federal Deposit Insurance Cor-
30 poration, as conservator or receiver for a financial institu-
31 tion or any other conservator for a financial institution ap-
32 pointed by the Office of the Comptroller of the Currency
33 or the Office of Thrift Supervision, or the National Credit
34 Union Administration, as conservator or liquidating agent

1 for a financial institution, shall order that the person forfeit to the United States any property, real or personal,
2 which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

3 “(3) A violation of—

4 “(A) section 718 (altering or removing motor vehicle
5 identification numbers);

6 “(B) section 866 (importing or exporting stolen
7 motor vehicles);

8 “(C) section 671 (transporting stolen motor vehicles
9 in interstate commerce); or

10 “(D) section 672 (possessing or selling a stolen
11 motor vehicle that has moved in interstate commerce).

12 “(4) A violation of, or conspiracy to violate, section
13 274(a), 274A(a)(1), or 274A(a)(2) of the Immigration and
14 Nationality Act or sections 311-316 of this title, or a violation
15 of, or conspiracy to violate, section 783 of this title if
16 committed in connection with passport or visa issuance or
17 use.

18 “(5) A Federal health care offense.

19 “(6) A violation of section 783, 786, 801, 802, 807, or
20 804.

21 “(9) A violation of section 211, 212, 213, 221, or 222.

22 “(7) A violation of section 301, 302, 303, or 320.

23 “(8) A violation of chapter 17.

24 “(9) A violation of section 631.

25 “(10) A violation of section 783, 786, or 794.

26 “(11) A violation of section 1307.

27 “(12) A violation of subchapter C of chapter 35.

28 **“§ 2562. Procedures for criminal forfeiture**

29 “(a) APPLICATION OF PROCEDURES.—Unless otherwise provided by law, the procedures set forth in this section govern
30 any criminal forfeiture under a law of the United States.

31 “(b) THIRD PARTY TRANSFERS.—All right, title, and interest in forfeitable vests in the United States upon the commission
32 of the act giving rise to forfeiture under this subchapter.
33 Any such property that is subsequently transferred to a person
34
35
36
37

1 other than the defendant may be the subject of a special verdict
2 of forfeiture and thereafter shall be ordered forfeited to the
3 United States, unless the transferee establishes in a hearing
4 pursuant to subsection (n) that the transferee is a bona fide
5 purchaser for value of such property who at the time of pur-
6 chase was reasonably without cause to believe that the property
7 was subject to forfeiture under this section.

8 “(c) REBUTTABLE PRESUMPTION.—There is a rebuttable
9 presumption at trial that any property of a person convicted of
10 a felony under chapter 17 is subject to forfeiture under this
11 section if the United States establishes by a preponderance of
12 the evidence that—

13 “(1) such property was acquired by such person during
14 the period of the violation or within a reasonable time after
15 such period; and

16 “(2) there was no likely source for such property other
17 than the violation

18 “(d) PROTECTIVE ORDERS.—

19 “(1) WHEN ISSUED.—Upon application of the United
20 States, the court may enter a restraining order or injunc-
21 tion, require the execution of a satisfactory performance
22 bond, or take any other action to preserve the availability
23 of property for forfeiture under this section—

24 “(A) upon the filing of an indictment or information
25 charging a violation for which criminal forfeiture may
26 be ordered under this section and alleging that the
27 property with respect to which the order is sought
28 would, in the event of conviction, be subject to for-
29 feiture under this section; or

30 “(B) prior to the filing of such an indictment or in-
31 formation, if, after notice to persons appearing to have
32 an interest in the property and opportunity for a hear-
33 ing, the court determines that—

34 “(i) there is a substantial probability that the
35 United States will prevail on the issue of forfeiture
36 and that failure to enter the order will result in the
37 property being destroyed, removed from the juris-

1 diction of the court, or otherwise made unavailable
2 for forfeiture; and

3 “(ii) the need to preserve the availability of the
4 property through the entry of the requested order
5 outweighs the hardship on any party against whom
6 the order is to be entered.

7 “(2) LENGTH.—An order entered pursuant to paragraph
8 (1)(B) shall be effective for not more than 90 days, unless
9 extended by the court for good cause shown or unless an
10 indictment or information described in paragraph (1)(A)
11 has been filed.

12 “(3) EX PARTE.—A temporary restraining order under
13 this subsection may be entered upon application of the
14 United States without notice or opportunity for a hearing
15 when an information or indictment has not yet been filed
16 with respect to the property, if the United States dem-
17 onstrates that there is probable cause to believe that the
18 property with respect to which the order is sought would,
19 in the event of conviction, be subject to forfeiture under
20 this section and that provision of notice will jeopardize the
21 availability of the property for forfeiture. Such a temporary
22 order shall expire not more than ten days after the date on
23 which it is entered, unless extended for good cause shown
24 or unless the party against whom it is entered consents to
25 an extension for a longer period. A hearing requested con-
26 cerning an order entered under this paragraph shall be held
27 at the earliest possible time and prior to the expiration of
28 the temporary order.

29 “(4) EVIDENCE.—The court may receive and consider, at
30 a hearing held pursuant to this subsection, evidence and in-
31 formation that would be inadmissible under the Federal
32 Rules of Evidence.

33 “(5) ORDER TO REPATRIATE AND DEPOSIT.—

34 “(A) IN GENERAL.—Pursuant to its authority to
35 enter a pretrial restraining order under this section, the
36 court may order a defendant to repatriate any property
37 that may be seized and forfeited, and to deposit that

1 property pending trial in the registry of the court, or
2 with the United States Marshals Service or the Sec-
3 retary of the Treasury, in an interest-bearing account,
4 if appropriate.

5 “(B) FAILURE TO COMPLY.—Failure to comply with
6 an order under this subsection, or an order to repa-
7 triate property under subsection (o), shall be punish-
8 able as a civil or criminal contempt of court, and may
9 also result in an enhancement of the sentence of the
10 defendant under the obstruction of justice provision of
11 the Federal Sentencing Guidelines.

12 “(e) WARRANT OF SEIZURE.—The Government may request
13 the issuance of a warrant authorizing the seizure of property
14 subject to forfeiture under this section in the same manner as
15 provided for a search warrant. If the court determines that
16 there is probable cause to believe that the property to be seized
17 would, in the event of conviction, be subject to forfeiture and
18 that an order under subsection (d) may not be sufficient to as-
19 sure the availability of the property for forfeiture, the court
20 shall issue a warrant authorizing the seizure of such property.

21 “(f) EXECUTION.—Upon entry of an order of forfeiture
22 under this section, the court shall authorize the Attorney Gen-
23 eral to seize all property ordered forfeited upon such terms and
24 conditions as the court shall deem proper. Following entry of
25 an order declaring the property forfeited, the court may, upon
26 application of the United States, enter such appropriate re-
27 straining orders or injunctions, require the execution of satis-
28 factory performance bonds, appoint receivers, conservators, ap-
29 praisers, accountants, or trustees, or take any other action to
30 protect the interest of the United States in the property or-
31 dered forfeited. Any income accruing to or derived from prop-
32 erty ordered forfeited under this section may be used to offset
33 ordinary and necessary expenses to the property which are re-
34 quired by law, or which are necessary to protect the interests
35 of the United States or third parties.

36 “(g) DISPOSITION OF PROPERTY.—Following the seizure of
37 property ordered forfeited under this section, the Attorney Gen-

1 eral shall direct the disposition of the property by sale of any
2 other any other commercially feasible means, making due provi-
3 sion for the rights of any innocent persons. Any property right
4 or interest not exercisable by, or transferable for value to, the
5 United States shall expire and shall not revert to the defend-
6 ant, nor shall the defendant or any person acting in concert
7 with or on the behalf of the defendant be eligible to purchase
8 forfeited property at any sale held by the United States. Upon
9 application of a person, other than the defendant or a person
10 acting in concert with or on the behalf of the defendant, the
11 court may restrain or stay the sale or disposition of the prop-
12 erty pending the conclusion of any appeal of the criminal case
13 giving rise to the forfeiture, if the applicant demonstrates that
14 proceeding with the sale or disposition of the property will re-
15 sult in irreparable injury, harm, or loss to the applicant.

16 “(h) AUTHORITY OF THE ATTORNEY GENERAL.—With re-
17 spect to property ordered forfeited under this section, the At-
18 torney General is authorized to—

19 “(1) grant petitions for mitigation or remission of for-
20 feiture, restore forfeited property to victims of a violation,
21 or take any other action to protect the rights of innocent
22 persons which is in the interest of justice and which is not
23 inconsistent with the provisions of this section;

24 “(2) compromise claims arising under this section;

25 “(3) award compensation to persons providing informa-
26 tion resulting in a forfeiture under this section;

27 “(4) direct the disposition by the United States, in ac-
28 cordance with section 511(e) of the Controlled Substances
29 Act, of all property ordered forfeited under this section by
30 public sale or any other commercially feasible means, mak-
31 ing due provision for the rights of innocent persons; and

32 “(5) take appropriate measures necessary to safeguard
33 and maintain property ordered forfeited under this section
34 pending its disposition.

35 “(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—
36 Except to the extent that they are inconsistent with this sec-

1 tion, section 511(d) of the Controlled Substances Act applies
2 to a criminal forfeiture under this section.

3 “(j) BAR ON INTERVENTION.—Except as provided in sub-
4 section (m), no party claiming an interest in property subject
5 to forfeiture under this section may—

6 “(1) intervene in a trial or appeal of a criminal case in-
7 volving the forfeiture of such property under this section;
8 or

9 “(2) commence an action at law or equity against the
10 United States concerning the validity of his alleged interest
11 in the property subsequent to the filing of an indictment
12 or information alleging that the property in subject to for-
13 feiture under this section.

14 “(k) JURISDICTION TO ENTER ORDERS.—The district courts
15 of the United States shall have jurisdiction to enter orders as
16 provided in this section without regard to the location of any
17 property which may be subject to forfeiture under this section
18 or which has been ordered forfeited under this section.

19 “(l) DEPOSITIONS.—In order to facilitate the identification
20 and location of property declared forfeited and to facilitate the
21 disposition of petitions for remission or mitigation of forfeiture,
22 after the entry of an order declaring property forfeited to the
23 United States, the court may, upon application of the United
24 States, order that the testimony of any witness relating to the
25 property forfeited be taken by deposition and that any des-
26 ignated book, paper, document, record, recording, or other ma-
27 terial not privileged be produced at the same time any place,
28 in the same manner as provided for the taking of depositions
29 under Rule 15 of the Federal Rules of Criminal Procedure.

30 “(m) THIRD PARTY INTERESTS.—(1) Following the entry of
31 an order of forfeiture under this section, the United States
32 shall publish notice of the order and of its intent to dispose of
33 the property in such manner as the Attorney General may di-
34 rect. The Government may also, to the extent practicable, pro-
35 vide direct written notice to any person known to have alleged
36 an interest in the property that is the subject of the order of

1 forfeiture as a substitute for published notice as to those per-
2 sons so notified.

3 “(2) Any person, other than the defendant, asserting a legal
4 interest in property which has been ordered forfeited to the
5 United States pursuant to this section may, within thirty days
6 of the final publication of notice or his receipt of notice under
7 paragraph (1), whichever is earlier, petition the court for a
8 hearing to adjudicate the validity of his alleged interest in the
9 property. The hearing shall be held before the court alone,
10 without a jury.

11 “(3) The petition shall be signed by the petitioner under pen-
12 alty of perjury and shall set forth the nature and extent of the
13 petitioner’s right, title, or interest in the property, the time and
14 circumstances of the petitioner’s acquisition of the right, title,
15 or interest in the property, and additional facts supporting the
16 petitioner’s claim, and the relief sought.

17 “(4) The hearing on the petition shall, to the extent prac-
18 ticable and consistent with the interests of justice, be held with-
19 in thirty days of the filing of the petition. The court may con-
20 solidate the hearing on the petition with a hearing on any other
21 petition filed by a person other than the defendant under this
22 subsection.

23 “(5) At the hearing, the petitioner may testify and present
24 evidence and witnesses on his own behalf, and cross-examine
25 witnesses who appear at the hearing. The United States may
26 present evidence and witnesses in rebuttal and in defense of
27 this claim to the property and cross-examine witnesses who ap-
28 pear at the hearing, the court shall consider the relevant por-
29 tions of the record of the criminal case which resulted in the
30 order of forfeiture.

31 “(6) If, after the hearing, the court determines that the peti-
32 tioner has established by a preponderance of the evidence
33 that—

34 “(A) the petitioner has a legal right, title, or interest in
35 the property, and such right, title, or interest renders the
36 order of forfeiture invalid in whole or in part because the
37 right, title, or interest was vested in the petitioner rather

1 than the defendant or was superior to any right, title, or
2 interest of the defendant at the time of the commission of
3 the acts which gave rise to the forfeiture of the property
4 under the section; or

5 “(B) the petitioner is a bona fide purchaser for value of
6 the right, title, or interest in the property and was at the
7 time of purchase reasonably without cause to believe that
8 the property was subject to forfeiture under this section;
9 the court shall amend the order of forfeiture in accordance with
10 its determination.

11 “(7) Following the court’s disposition of all petitions filed
12 under this subsection, or if no such petitions are filed following
13 the expiration of the period provided in paragraph (2) for the
14 filing of such petitions, the United States shall have clear title
15 to property that is the subject of the order of forfeiture and
16 may warrant good title to any subsequent purchaser or trans-
17 feree.

18 “(n) RULE OF CONSTRUCTION.—This section shall be lib-
19 erally construed to effectuate its remedial purposes.

20 “(o) FORFEITURE OF SUBSTITUTE PROPERTY.—

21 “(1) IN GENERAL.—Paragraph (2) of this subsection
22 shall apply, if any property described in subsection (a), as
23 a result of any act or omission of the defendant—

24 “(A) cannot be located upon the exercise of due dili-
25 gence;

26 “(B) has been transferred or sold to, or deposited
27 with, a third party;

28 “(C) has been placed beyond the jurisdiction of the
29 court;

30 “(D) has been substantially diminished in value; or

31 “(E) has been commingled with other property which
32 cannot be divided without difficulty.

33 “(2) SUBSTITUTE PROPERTY.—In any case described in
34 any of subparagraphs (A) through (E) of paragraph (1),
35 the court shall order the forfeiture of any other property
36 of the defendant, up to the value of any property described

1 in subparagraphs (A) through (E) of paragraph (1), as ap-
2 plicable.

3 “(3) RETURN OF PROPERTY TO JURISDICTION.—In the
4 case of property described in paragraph (1)(C), the court
5 may, in addition to any other action authorized by this sub-
6 section, order the defendant to return the property to the
7 jurisdiction of the court so that the property may be seized
8 and forfeited.

9 “(4) LIMITATION.—This subsection shall not be used to
10 order a defendant to forfeit assets in place of the actual
11 property laundered where such defendant acted merely as
12 an intermediary who handled but did not retain the prop-
13 erty in the course of the money laundering offense unless
14 the defendant, in committing the offense or offenses giving
15 rise to the forfeiture, conducted three or more separate
16 transactions involving a total of \$100,000 or more in any
17 twelve month period.

18 “(p) SPECIAL RESTITUTION.—The court, when sentencing a
19 defendant convicted of an offense under chapter 17 involving
20 the manufacture, the possession, or the possession with intent
21 to distribute, of amphetamine or methamphetamine, shall—

22 “(1) order restitution as provided in sections 3612 and
23 3664;

24 “(2) order the defendant to reimburse the United States,
25 the State or local government concerned, or both the
26 United States and the State or local government concerned
27 for the costs incurred by the United States or the State or
28 local government concerned, as the case may be, for the
29 cleanup associated with the manufacture of amphetamine
30 or methamphetamine by the defendant, or on premises or
31 in property that the defendant owns, resides, or does busi-
32 ness in; and

33 “(3) order restitution to any person injured as a result
34 of the offense as provided in section 3663A.

1 **SEC. 3. CONFORMING REPEALS.**

2 (a) CONTROLLED SUBSTANCES ACT.—The Con-
3 trolled Substances Act is amended by striking all of the
4 sections in part D, except sections 412 (relating to appli-
5 cation of treaties and other international agreements) and
6 421 (relating to denial of Federal benefits to drug traf-
7 fickers and possessors).

8 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
9 ACT.—The Controlled Substances Import and Export Act
10 is amended by striking sections 1002 (relating to importa-
11 tion of controlled substances) and 1003 (exportation of
12 controlled substances).

13 (c) ATOMIC ENERGY ACT OF 1954.—The Atomic En-
14 ergy Act of 1954 is amended—

15 (1) by striking sections 92, 221, 224, 225, 226,
16 227, and 235;

17 (2) by striking subsections a. and b. of section
18 57;

19 (3) in section 222 a., by striking “57 or”; and

20 (4) by striking subsection b. of section 222.

21 (d) ADDITIONAL CONFORMING REPEALS.—Not later
22 than 180 days after the date of the enactment of this Act,
23 the Attorney General shall submit to Congress proposed
24 legislation repealing additional provisions of law that have
25 been rendered superfluous by the enactment of this Act.

1 **SEC. 4. CROSS REFERENCES.**

2 Not later than 180 days after the date of the enact-
3 ment of this Act, the Attorney General shall submit to
4 Congress proposed legislation correcting cross references
5 in other laws to provisions of law that have been amended
6 or repealed by this Act.

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