

“(1) cannot be located upon the exercise of due diligence;

“(2) has been transferred or sold to, or deposited with, a third party;

“(3) has been placed beyond the jurisdiction of the court;

“(4) has been substantially diminished in value; or

“(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).”

2000—Subsec. (q). Pub. L. 106-310, §3613(a)(1), (2), in introductory provisions, inserted “amphetamine or” before “methamphetamine” and substituted “shall” for “may”.

Subsec. (q)(2). Pub. L. 106-310, §3613(a)(2), (3), inserted “, the State or local government concerned, or both the United States and the State or local government concerned” after “to reimburse the United States”, “or the State or local government concerned, as the case may be,” after “costs incurred by the United States”, and “amphetamine or” before “methamphetamine”.

Subsec. (q)(3). Pub. L. 106-310, §3613(a)(4), substituted “section 3663A of title 18” for “section 3663 of title 18”.

1996—Subsec. (q). Pub. L. 104-237 added subsec. (q).

1986—Subsec. (c). Pub. L. 99-570, §1864(1), substituted “subsection (n)” for “subsection (o)”.

Subsec. (f). Pub. L. 99-570, §1864(2), substituted “subsection (e)” for “subsection (f)”.

Subsec. (i)(1). Pub. L. 99-570, §1864(3), substituted “this subchapter” for “this chapter”.

Subsec. (k). Pub. L. 99-570, §1864(1), (4), which directed the substitution of “subsection (n)” for “subsection (o)” in “the second subsection (h)”, and directed the redesignation of “the second subsection (h)” as subsection (k), were executed to this subsection because the “second subsection (h)” had been editorially redesignated subsec. (k) to reflect the probable intent of Congress. See 1984 Amendment note below.

Subsec. (p). Pub. L. 99-570, §1153(b), which directed that “section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975” be amended “by redesignating subsection ‘(p)’ as subsection ‘(q)’” and adding subsec. (p) was executed to this section, which is section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as the probable intent of Congress, by adding a subsec. (p) in view of the prior redesignation of subsec. (p) as (o) by Pub. L. 98-473, §2301(e)(2). See 1984 Amendment note below.

1984—Subsec. (a). Pub. L. 98-473, §2301(d), inserted “In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.”

Subsec. (d). Pub. L. 98-473, §2301(e), struck out subsec. (d) which related to forfeiture of property other than that described in subsec. (a) and the conditions therefor, and redesignated former subsec. (e) as (d).

Subsecs. (e) to (p). Pub. L. 98-473, §2301(e)(2), which directed that this section be amended by redesignating subsecs. (e), (f), (g), (h), (i), (l), (m), (n), (o), and (p) as subsecs. (d), (e), (f), (g), (h), (i), (j), (h), (l), (m), (n), and (o), respectively, was executed by redesignating subsecs. (e) to (p) as (d) to (o), respectively, to give effect to the probable intent of Congress.

Subsec. (n)(1). Pub. L. 98-473, §2301(f), struck out “for at least seven successive court days” after “to dispose of the property”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of Title 11, Bankruptcy.

#### SAVINGS CLAUSE

Pub. L. 109-177, title VII, §743(b), Mar. 9, 2006, 120 Stat. 273, provided that: “Nothing in this section [amending this section] shall be interpreted or con-

strued to amend, alter, or otherwise affect the obligations, liabilities and other responsibilities of any person under any Federal or State environmental laws.”

### § 853a. Transferred

#### CODIFICATION

Section, Pub. L. 100-690, title V, §5301, Nov. 18, 1988, 102 Stat. 4310, which related to denial of Federal benefits to drug traffickers and possessors, was renumbered section 421 of the Controlled Substances Act by Pub. L. 101-647, title X, §1002(d)(1), Nov. 29, 1990, 104 Stat. 4827, and is classified to section 862 of this title.

### § 854. Investment of illicit drug profits

#### (a) Prohibition

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this subchapter or subchapter II punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any violation of this subchapter or subchapter II after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

#### (b) Penalty

Whoever violates this section shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

#### (c) “Enterprise” defined

As used in this section, the term “enterprise” includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

#### (d) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(Pub. L. 91-513, title II, §414, as added Pub. L. 98-473, title II, §303, Oct. 12, 1984, 98 Stat. 2049.)

### § 855. Alternative fine

In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(Pub. L. 91-513, title II, §415, as added Pub. L. 98-473, title II, §2302, Oct. 12, 1984, 98 Stat. 2193.)