104–294, title VI, § 604(b)(18), Oct. 11, 1996, 110 Stat. 3507.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 designated first and second pars. beginning with quotation mark as pars. (1) and (2), respectively, and made technical amendment to provisions appearing in original.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 669. Theft or embezzlement in connection with health care

(a) Whoever knowingly and willfully embezzles, steals, or otherwise without authority converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

(b) As used in this section, the term ''health care benefit program'' has the meaning given such term in section 24(b) of this title.

(Added Pub. L. 104–191, title II, § 243(a), Aug. 21, 1996, 110 Stat. 2017.)

§ 670. Theft of medical products

(a) PROHIBITED CONDUCT.—Whoever, in, or using any means or facility of, interstate or foreign commerce—

(1) embezzles, steals, or by fraud or deception obtains, or knowingly and unlawfully takes, carries away, or conceals a pre-retail medical product;

(2) knowingly and falsely makes, alters, forges, or counterfeits the labeling or documentation (including documentation relating to origination or shipping) of a pre-retail medical product;

(3) knowingly possesses, transports, or traffics in a pre-retail medical product that was involved in a violation of paragraph (1) or (2);

(4) with intent to defraud, buys, or otherwise obtains, a pre-retail medical product that has expired or been stolen;

(5) with intent to defraud, sells, or distributes, a pre-retail medical product that is expired or stolen; or

(6) attempts or conspires to violate any of paragraphs (1) through (5);

shall be punished as provided in subsection (c) and subject to the other sanctions provided in this section.

(b) AGGRAVATED OFFENSES.—An offense under this section is an aggravated offense if—

(1) the defendant is employed by, or is an agent of, an organization in the supply chain for the pre-retail medical product; or

(2) the violation—

(A) involves the use of violence, force, or a threat of violence or force;

(B) involves the use of a deadly weapon;

(C) results in serious bodily injury or death, including serious bodily injury or death resulting from the use of the medical product involved; or

(D) is subsequent to a prior conviction for an offense under this section.

(c) CRIMINAL PENALTIES.—Whoever violates subsection (a)—

(1) if the offense is an aggravated offense under subsection (b)(2)(C), shall be fined under this title or imprisoned not more than 30 years, or both;

(2) if the value of the medical products involved in the offense is $5,000 or greater, shall be fined under this title, imprisoned for not more than 15 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 20 years; and

(3) in any other case, shall be fined under this title, imprisoned for not more than 3 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 5 years.

(d) CIVIL PENALTIES.—Whoever violates subsection (a) is subject to a civil penalty in an amount not more than the greater of—

(1) three times the economic loss attributable to the violation; or

(2) $1,000,000.

(e) DEFINITIONS.—In this section—

(1) the term ''pre-retail medical product'' means a medical product that has not yet been made available for retail purchase by a consumer;

(2) the term ''medical product'' means a drug, biological product, device, medical food, or infant formula;

(3) the terms ''device'', ''drug'', ''infant formula'', and ''labeling'' have, respectively, the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act;

(4) the term ''biological product'' has the meaning given the term in section 351 of the Public Health Service Act;

(5) the term ''medical food'' has the meaning given the term in section 5(b) of the Orphan Drug Act; and

(6) the term ''supply chain'' includes manufacturer, wholesaler, repacker, own-labeled distributor, private-label distributor, jobber, broker, drug trader, transportation company, hospital, pharmacy, or security company.

(Added Pub. L. 112–186, § 2(a), Oct. 5, 2012, 126 Stat. 1427.)

REFERENCES IN TEXT

Section 201 of the Federal Food, Drug, and Cosmetic Act, referred to in subsec. (e)(3), is classified to section 321 of Title 21, Food and Drugs.

Section 351 of the Public Health Service Act, referred to in subsec. (e)(4), is classified to section 262 of Title 42, The Public Health and Welfare.

Section 5(b) of the Orphan Drug Act, referred to in subsec. (e)(5), is classified to section 360ee(b) of Title 21.

PRIORITY GIVEN TO CERTAIN INVESTIGATIONS AND PROSECUTIONS

Pub. L. 112–186, § 4(e), Oct. 5, 2012, 126 Stat. 1429, provided that: ''The Attorney General shall give increased