

- (8) carburetor pipes;
- (9) electric pipes;
- (10) air-driven pipes;
- (11) chillums;
- (12) bonges;
- (13) ice pipes or chillers;
- (14) wired cigarette papers; or
- (15) cocaine freebase kits.

(e) Matters considered in determination of what constitutes drug paraphernalia

In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

- (1) instructions, oral or written, provided with the item concerning its use;
- (2) descriptive materials accompanying the item which explain or depict its use;
- (3) national and local advertising concerning its use;
- (4) the manner in which the item is displayed for sale;
- (5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;
- (7) the existence and scope of legitimate uses of the item in the community; and
- (8) expert testimony concerning its use.

(f) Exemptions

This section shall not apply to—

- (1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or
- (2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

(Pub. L. 91-513, title II, §422, as added and amended Pub. L. 101-647, title XXIV, §2401(a)-(c), Nov. 29, 1990, 104 Stat. 4858, 4859; Pub. L. 106-310, div. B, title XXXVI, §3614, Oct. 17, 2000, 114 Stat. 1230.)

CODIFICATION

The text of section 857(b) to (f) of this title, which was transferred to subsecs. (b) to (f) of this section by Pub. L. 101-647, §2401(b), was based on Pub. L. 99-570, title I, §1822(b)-(f), Oct. 27, 1986, 100 Stat. 3207-51; Pub. L. 100-690, title VI, §6485, Nov. 18, 1988, 102 Stat. 4384.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106-310 inserted “methamphetamine,” after “PCP,” in introductory provisions.

1990—Subsec. (b). Pub. L. 101-647, §2401(c)(1), substituted “fined under title 18” for “fined not more than \$100,000”.

Pub. L. 101-647, §2401(b), redesignated subsec. (b) of section 857 of this title as subsec. (b) of this section. See Codification note above.

Subsecs. (c) to (e). Pub. L. 101-647, §2401(b), redesignated subsecs. (c) to (e) of section 857 of this title as subsecs. (c) to (e) of this section. See Codification note above.

Subsec. (f). Pub. L. 101-647, §2401(c)(2), made technical amendment to reference to “This section” to correct reference to corresponding provision of original act.

Pub. L. 101-647, §2401(b), redesignated subsec. (f) of section 857 of this title as subsec. (f) of this section. See Codification note above.

§ 864. Anhydrous ammonia

- (a) It is unlawful for any person—
 - (1) to steal anhydrous ammonia, or
 - (2) to transport stolen anhydrous ammonia across State lines,

knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be used to manufacture a controlled substance in violation of this part.

(b) Any person who violates subsection (a) shall be imprisoned or fined, or both, in accordance with section 843(d) of this title as if such violation were a violation of a provision of section 843 of this title.

(Pub. L. 91-513, title II, §423, as added Pub. L. 106-310, div. B, title XXXVI, §3653(a), Oct. 17, 2000, 114 Stat. 1240.)

§ 864a. Grants to reduce production of methamphetamines from anhydrous ammonia

(a) Definitions

In this section:

(1) Eligible entity

The term “eligible entity” means—

- (A) a producer of agricultural commodities;
- (B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or
- (C) a person in the trade or business of—
 - (i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or
 - (ii) aerial and ground application of an agricultural chemical.

(2) Nurse tank

The term “nurse tank” shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).

(b) Grant authority

The Secretary may make a grant to an eligible entity to enable the eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.

(c) Grant amount

The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—

- (1) an amount not less than \$40 and not more than \$60, as determined by the Secretary; and
- (2) the number of fertilizer nurse tanks of the eligible entity.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to make grants under this section