

vided for the repeal of subsecs. (a)(9) and (c)(2)(C) of this section effective Jan. 1, 1981.

§ 843. Prohibited acts C

(a) Unlawful acts

It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 828 of this title;

(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter or subchapter II, or (B) to present false or fraudulent identification where the person is receiving or purchasing a listed chemical and the person is required to present identification under section 830(a) of this title;

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance;

(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II;

(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II or, in the case of an exportation, in violation of this subchapter or subchapter II or of the laws of the country to which it is exported;

(8) to create a chemical mixture for the purpose of evading a requirement of section 830 of this title or to receive a chemical mixture created for that purpose; or

(9) to distribute, import, or export a list I chemical without the registration required by this subchapter or subchapter II.

(b) Communication facility

It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this subchapter or subchapter II. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term “communication facility” means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

(c) Advertisement

(1) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule¹ I controlled substance. As used in this section the term “advertisement” includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule¹ I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule¹ I controlled substance. The term “advertisement” does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule¹ I controlled substance.

(2)(A) It shall be unlawful for any person to knowingly or intentionally use the Internet, or cause the Internet to be used, to advertise the sale of, or to offer to sell, distribute, or dispense, a controlled substance where such sale, distribution, or dispensing is not authorized by this subchapter or by the Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.].

(B) Examples of activities that violate subparagraph (A) include, but are not limited to, knowingly or intentionally causing the placement on the Internet of an advertisement that refers to or directs prospective buyers to Internet sellers of controlled substances who are not registered with a modification under section 823(f) of this title.

(C) Subparagraph (A) does not apply to material that either—

(i) merely advertises the distribution of controlled substances by nonpractitioners to the extent authorized by their registration under this subchapter; or

(ii) merely advocates the use of a controlled substance or includes pricing information without attempting to facilitate an actual transaction involving a controlled substance.

(d) Penalties

(1) Except as provided in paragraph (2), any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine under title 18, or both; except that if any person commits such a violation

¹ So in original. Probably should not be capitalized.

after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this subchapter or subchapter II or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine under title 18, or both.

(2) Any person who, with the intent to manufacture or to facilitate the manufacture of methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be sentenced to a term of imprisonment of not more than 10 years, a fine under title 18, or both; except that if any person commits such a violation after one or more prior convictions of that person—

(A) for a violation of paragraph (6) or (7) of subsection (a);

(B) for a felony under any other provision of this subchapter or subchapter II of this chapter;² or

(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine under title 18, or both.

(e) Additional penalties

In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(f) Injunctions

(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section, section 842 of this title, or 856³ of this title.

(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 842 of this title.

(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Pub. L. 91-513, title II, §403, Oct. 27, 1970, 84 Stat. 1263; Pub. L. 95-633, title II, §202(b)(3), Nov. 10, 1978, 92 Stat. 3776; Pub. L. 98-473, title II, §516, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 99-570, title I, §1866(a), Oct. 27, 1986, 100 Stat. 3207-54; Pub. L. 100-690, title VI, §6057, Nov. 18, 1988, 102 Stat. 4319; Pub. L. 103-200, §3(g), Dec. 17, 1993, 107 Stat.

2337; Pub. L. 103-322, title IX, §90106, Sept. 13, 1994, 108 Stat. 1988; Pub. L. 104-237, title II, §§203(a), 206(b), Oct. 3, 1996, 110 Stat. 3102, 3103; Pub. L. 107-273, div. B, title IV, §4002(d)(2)(C), Nov. 2, 2002, 116 Stat. 1810; Pub. L. 108-21, title VI, §608(d), Apr. 30, 2003, 117 Stat. 691; Pub. L. 110-425, §3(g), Oct. 15, 2008, 122 Stat. 4830.)

REFERENCES IN TEXT

Schedules I and II, referred to in subsecs. (a)(1) and (c)(1), are set out in section 812(c) of this title.

This subchapter, referred to in subsec. (c)(2)(A), (C)(i), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (c)(2)(A), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§951 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

This subchapter or subchapter II of this chapter, referred to in subsec. (d)(2)(B), was in the original a reference to "this subchapter or subchapter II of this chapter" but probably should be a reference to "this title or title III of this Act", meaning titles II and III, respectively, of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, 1285.

The Federal Rules of Civil Procedure, referred to in subsec. (f)(4), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (f)(4), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-425 designated existing provisions as par. (1) and added par. (2).

2003—Subsec. (f)(1). Pub. L. 108-21 substituted "this section, section 842 of this title, or 856 of this title" for "this section or section 842 of this title".

2002—Subsec. (d). Pub. L. 107-273 substituted "under title 18, or both;" for "of not more than \$30,000, or both;" in two places and "under title 18, or both." for "of not more than \$60,000, or both." in two places.

1996—Subsec. (d). Pub. L. 104-237, §203(a), inserted par. (1) designation, substituted "Except as provided in paragraph (2), any person" for "Any person", and added par. (2).

Subsec. (e). Pub. L. 104-237, §206(b)(1), inserted "manufacture, exportation." after "distribution," and struck out "regulated" after "engaging in any".

Subsec. (f). Pub. L. 104-237, §206(b)(2), added subsec. (f).

1994—Subsecs. (c) to (e). Pub. L. 103-322 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1993—Subsec. (a)(6), (7). Pub. L. 103-200, §3(g)(1), amended pars. (6) and (7) generally. Prior to amendment, pars. (6) and (7) read as follows:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, with intent to manufacture a controlled substance except as authorized by this subchapter;

"(7) to manufacture, distribute, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this subchapter; or"

Subsec. (a)(9). Pub. L. 103-200, §3(g)(2), (3), added par. (9).

² See References in Text note below.

³ So in original. Probably should be preceded by "section".

1988—Subsec. (a)(4)(B). Pub. L. 100-690, § 6057(a)(1), substituted “a listed chemical” for “piperidine”.

Subsec. (a)(6) to (8). Pub. L. 100-690, § 6057(a)(2)-(4), added pars. (6) to (8).

Subsec. (d). Pub. L. 100-690, § 6057(b), added subsec. (d).
1986—Subsec. (a)(2). Pub. L. 99-570 substituted a semicolon for the period at end.

1984—Subsec. (a)(2). Pub. L. 98-473 added applicability to dispensing, acquiring, or obtaining a controlled substance, and applicability to an expired number.

1978—Subsec. (a)(4). Pub. L. 95-633, § 202(b)(3), designated existing provisions as subpar. (A) and added subpar. (B).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110-425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103-200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100-690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective Nov. 10, 1978, except as otherwise provided, see section 203(a) of Pub. L. 95-633, set out as an Effective Date note under section 830 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91-513, set out as a note under section 801 of this title.

REPEALS

Pub. L. 96-359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95-633, which had provided for the repeal of subsec. (a)(4)(B) of this section effective Jan. 1, 1981.

§ 844. Penalties for simple possession

(a) Unlawful acts; penalties

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II. It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 823 of this title or section 958 of this title if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration. It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or

the Postal Service. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of \$1,000, or both, except that if he commits such offense after a prior conviction under this subchapter or subchapter II, or a prior conviction for any drug, narcotic, or chemical offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of \$2,500, except, further, that if he commits such offense after two or more prior convictions under this subchapter or subchapter II, or two or more prior convictions for any drug, narcotic, or chemical offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of \$5,000. Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

(b) Repealed. Pub. L. 98-473, title II, § 219(a), Oct. 12, 1984, 98 Stat. 2027

(c) “Drug, narcotic, or chemical offense” defined

As used in this section, the term “drug, narcotic, or chemical offense” means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this subchapter.

(Pub. L. 91-513, title II, § 404, Oct. 27, 1970, 84 Stat. 1264; Pub. L. 98-473, title II, § 219, Oct. 12, 1984, 98 Stat. 2027; Pub. L. 99-570, title I, § 1052, Oct. 27, 1986, 100 Stat. 3207-8; Pub. L. 100-690, title VI, §§ 6371, 6480, Nov. 18, 1988, 102 Stat. 4370, 4382; Pub. L. 101-647, title XII, § 1201, title XIX, § 1907, Nov. 29, 1990, 104 Stat. 4829, 4854; Pub. L. 104-237, title II, § 201(a), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 104-305, § 2(c), Oct. 13, 1996, 110 Stat. 3808; Pub. L. 109-177, title VII, § 711(e)(1), Mar. 9, 2006, 120 Stat. 262; Pub. L. 111-220, § 3, Aug. 3, 2010, 124 Stat. 2372.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-220 struck out “Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of \$1,000, if the conviction is a first conviction under this subsection and the