

PRIORITY GIVEN TO CERTAIN INVESTIGATIONS AND PROSECUTIONS

Pub. L. 112-144, title VII, §717(a)(4), July 9, 2012, 126 Stat. 1076, provided that: "The Attorney General shall give increased priority to efforts to investigate and prosecute offenses under section 2320 of title 18, United States Code, that involve counterfeit drugs."

FINDINGS

Pub. L. 109-181, §1(a)(2), Mar. 16, 2006, 120 Stat. 285, provided that: "The Congress finds that—

"(A) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

"(B) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States \$200 billion annually;

"(C) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

"(D) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

"(E) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

"(F) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

"(G) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners."

§ 2321. Trafficking in certain motor vehicles or motor vehicle parts

(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined under this title or imprisoned not more than ten years, or both.

(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2) is not a violation of section 511 of this title.

(c) As used in this section, the terms "identification number" and "motor vehicle" have the meaning given those terms in section 511 of this title.

(Added Pub. L. 98-547, title II, §204(a), Oct. 25, 1984, 98 Stat. 2770, §2320; renumbered §2321, Pub. L. 99-646, §42(a), Nov. 10, 1986, 100 Stat. 3601; amended Pub. L. 103-322, title XXXIII, §330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$20,000".

§ 2322. Chop shops

(a) IN GENERAL.—

(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a per-

son under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.

(b) DEFINITION.—For purposes of this section, the term "chop shop" means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

(Added Pub. L. 102-519, title I, §105(a), Oct. 25, 1992, 106 Stat. 3385.)

§ 2323. Forfeiture, destruction, and restitution

(a) CIVIL FORFEITURE.—

(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States Government:

(A) Any article, the making or trafficking of which is, prohibited under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A).

(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

(b) CRIMINAL FORFEITURE.—

(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Govern-

ment any property subject to forfeiture under subsection (a) for that offense.

(2) PROCEDURES.—

(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

(c) RESTITUTION.—When a person is convicted of an offense under section 506 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.

(Added Pub. L. 110-403, title II, §206(a), Oct. 13, 2008, 122 Stat. 4262.)

CHAPTER 113A—TELEMARKETING AND EMAIL MARKETING FRAUD

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PRIOR PROVISIONS

A prior chapter 113A of part I of this title, consisting of section 2331 et seq. and relating to terrorism, was re-numbered chapter 113B of part I of this title by Pub. L. 103-322, title XXV, §250002(a)(1), Sept. 13, 1994, 108 Stat. 2082.

AMENDMENTS

2017—Pub. L. 115-70, title IV, §402(a)(1), (b)(2), Oct. 18, 2017, 131 Stat. 1213, 1214, inserted “AND EMAIL MARKETING” after “TELEMARKETING” in chapter heading and added item 2328.

§ 2325. Definition

In this chapter, the term “telemarketing or email marketing”—

(1) means a plan, program, promotion, or campaign that is conducted to induce—

(A) purchases of goods or services;

(B) participation in a contest or sweepstakes;

(C) a charitable contribution, donation, or gift of money or any other thing of value;

(D) investment for financial profit;

(E) participation in a business opportunity;

(F) commitment to a loan; or

(G) participation in a fraudulent medical study, research study, or pilot study,

by use of one or more interstate telephone calls, emails, text messages, or electronic instant messages initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant or charitable contributor, donor, or investor; and

(2) does not include the solicitation through the posting, publication, or mailing of a catalog or brochure that—

(A) contains a written description or illustration of the goods, services, or other opportunities being offered;

(B) includes the business address of the solicitor;

(C) includes multiple pages of written material or illustration; and

(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone, email, text message, or electronic instant message, but only receives interstate telephone calls, emails, text messages, or electronic instant messages initiated by customers in response to the written materials, whether in hard copy or digital format, and in response to those interstate telephone calls, emails, text messages, or electronic instant messages does not conduct further solicitation.

(Added Pub. L. 115-70, title IV, §402(a)(2), Oct. 18, 2017, 131 Stat. 1213.)

PRIOR PROVISIONS

A prior section 2325, added Pub. L. 103-322, title XXV, §250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 107-56, title X, §1011(d), Oct. 26, 2001, 115 Stat. 396, related to definition of “telemarketing”, prior to repeal by Pub. L. 115-70, title IV, §402(a)(2), Oct. 18, 2017, 131 Stat. 1213.

SHORT TITLE

Pub. L. 103-322, title XXV, §250001, Sept. 13, 1994, 108 Stat. 2081, provided that: “This Act [probably should be ‘title’, meaning title XXV (§§250001-250008) of Pub. L. 103-322, which enacted this chapter, amended sections 1029, 1341, and 3059 of this title, and enacted provisions set out as notes under this section and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Senior Citizens Against Marketing Scams Act of 1994.’”

INFORMATION NETWORK

Pub. L. 103-322, title XXV, §250008, Sept. 13, 1994, 108 Stat. 2088, as amended by Pub. L. 104-294, title VI, §604(b)(29), Oct. 11, 1996, 110 Stat. 3508, provided that:

“(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

“(1) providing general information on telemarketing fraud to interested persons; and

“(2) gathering information related to possible violations of provisions of law amended by this title [see Short Title note above].

“(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.”