

and not as part of the Controlled Substances Act which comprises this subchapter.

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113-79, § 4030(n)(1), substituted “supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)) or any State program carried out under that Act” for “food stamp program (as defined in section 3(l) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977”.

Subsec. (b)(2). Pub. L. 113-79, § 4030(n)(2), substituted “supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)), or any State program carried out under that Act” for “food stamp program (as defined in section 3(l) of the Food Stamp Act of 1977), or any State program carried out under the Food Stamp Act of 1977”.

Subsec. (e)(2). Pub. L. 113-79, § 4030(n)(3), substituted “section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), when referring to the supplemental nutrition assistance program (as defined in that section) or any State program carried out under that Act” for “section 3(s) of the Food Stamp Act of 1977, when referring to the food stamp program (as defined in section 3(l) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977”.

2008—Subsecs. (a)(2), (b)(2). Pub. L. 110-246, § 4115(c)(2)(C)(i), substituted “section 3(l)” for “section 3(h)”.

Subsec. (e)(2). Pub. L. 110-246, § 4115(c)(2)(C), substituted “section 3(s)” for “section 3(m)” and “section 3(l)” for “section 3(h)”.

1997—Subsec. (d)(2). Pub. L. 105-33 substituted “a conviction if the conviction is for conduct” for “convictions”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

References to the food stamp program established under the Food Stamp Act of 1977, now known as the Food and Nutrition Act of 2008, considered to refer to the supplemental nutrition assistance program established under that Act, see section 4002(c) of Pub. L. 110-246, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4115(c)(2)(C) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title V, § 5518(d), Aug. 5, 1997, 111 Stat. 621, provided that: “The amendments made by this chapter to a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193] that have not become part of another statute [chapter 1 (§§ 5501-5518) of subtitle F of title V of Pub. L. 105-33, amending this section, sections 601 to 603, 604 to 608, 609 to 611, and 612 to 617 of Title 42, The Public Health and Welfare, and provisions set out as notes under section 612c of Title 7, Agriculture, and sections 601 and 613 of Title 42] shall take effect as if the amendments had been included in the provision at the time the provision became law.”

EFFECTIVE DATE

Section effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules

relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

§ 862b. Sanctioning for testing positive for controlled substances

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

(Pub. L. 104-193, title IX, § 902, Aug. 22, 1996, 110 Stat. 2347.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

§ 863. Drug paraphernalia

(a) In general

It is unlawful for any person—

- (1) to sell or offer for sale drug paraphernalia;
- (2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or
- (3) to import or export drug paraphernalia.

(b) Penalties

Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined under title 18.

(c) Seizure and forfeiture

Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) “Drug paraphernalia” defined

The term “drug paraphernalia” means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under this subchapter. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana,¹ cocaine,

¹ So in original. Probably should be “marihuana.”

hashish, hashish oil, PCP, methamphetamine, or amphetamines into the human body, such as—

- (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (2) water pipes;
- (3) carburetion tubes and devices;
- (4) smoking and carburetion masks;
- (5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
- (6) miniature spoons with level capacities of one-tenth cubic centimeter or less;
- (7) chamber pipes;
- (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.)

Editorial Notes

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