

(2) the term “body armor” means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, stabbing, or other physical harm;

(3) the term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

(4) the term “unit of local government” means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

(5) the term “Indian tribe” has the same meaning as in section 5304(e) of title 25; and

(6) the term “law enforcement officer” means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

(Pub. L. 90-351, title I, §2503, as added Pub. L. 105-181, §3(a)(3), June 16, 1998, 112 Stat. 514; amended Pub. L. 106-517, §3(d), Nov. 13, 2000, 114 Stat. 2408.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 3796II-2 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

##### AMENDMENTS

2000—Par. (1). Pub. L. 106-517 designated provisions after “‘armor vest’ means” as subpar. (A) and added subpar. (B).

#### Statutory Notes and Related Subsidiaries

##### INTERIM DEFINITION OF ARMOR VEST

Pub. L. 106-517, §3(e), Nov. 13, 2000, 114 Stat. 2408, provided that: “For purposes of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [34 U.S.C. 10531 et seq.], as amended by this Act, the meaning of the term ‘armor vest’ (as defined in section 2503 of such Act [42 U.S.C. 3796II-2] [now 34 U.S.C. 10533]) shall, until the date on which a final NIJ Standard 0115.00 is first fully approved and implemented, also include body armor which has been found to meet or exceed the requirements for protection against stabbing established by the State in which the grantee is located.”

#### § 10534. James Guelff and Chris McCurley Body Armor Act of 2002

##### (a) Short title

This section may be cited as the “James Guelff and Chris McCurley Body Armor Act of 2002”.

##### (b) Findings

Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,500 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

##### (c) Definitions

In this section:

##### (1) Body armor

The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

##### (2) Law enforcement agency

The term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

##### (3) Law enforcement officer

The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

##### (d) Amendment of sentencing guidelines with respect to body armor

##### (1) In general

Pursuant to its authority under section 994(p) of title 28, the United States Sentencing

Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18) or drug trafficking crime (as defined in section 924(c) of title 18) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

**(2) Sense of Congress**

It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

**(e) Omitted**

**(f) Donation of Federal surplus body armor**

**(1) Definitions**

In this subsection, the terms “Federal agency” and “surplus property” have the meanings given such terms under section 102 of title 40.

**(2) Donation of body armor**

Notwithstanding sections 541–555 of title 40, the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

(A) is in serviceable condition;

(B) is surplus property; and

(C) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on November 2, 2002).

**(3) Notice to Administrator**

The head of a Federal agency who donates body armor under this subsection shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

**(4) Donation by certain officers**

**(A) Department of Justice**

In the administration of this subsection with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(i) The Administrator of the Drug Enforcement Administration.

(ii) The Director of the Federal Bureau of Investigation.

(iii) The Commissioner of the Immigration and Naturalization Service.

(iv) The Director of the United States Marshals Service.

**(B) Department of the Treasury**

In the administration of this subsection with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(i) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(ii) The Commissioner of U.S. Customs and Border Protection.

(iii) The Director of the United States Secret Service.

**(5) No liability**

Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this subsection.

(Pub. L. 107–273, div. C, title I, §11009, Nov. 2, 2002, 116 Stat. 1819; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

**Editorial Notes**

**CODIFICATION**

Section is comprised of section 11009 of Pub. L. 107–273. Subsec. (e) of section 11009 of Pub. L. 107–273 enacted section 931 of Title 18, Crimes and Criminal Procedure, and amended sections 921 and 924 of Title 18.

Section was enacted as part of the 21st Century Department of Justice Appropriations Authorization Act, and not as part of title I of the Omnibus Crime Control and Safe Streets Act of 1968 which comprises this chapter.

In subsec. (f), “section 102 of title 40” substituted for “section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)” in par. (1), and “sections 541–555 of title 40” substituted for “section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)” in par. (2), on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was formerly classified to section 3796I–3 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**Statutory Notes and Related Subsidiaries**

**CHANGE OF NAME**

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (f)(4)(B)(ii) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, including the related functions of the Secretary of the Treasury, to the Department of Justice, see section 531(c) of Title 6, Domestic Security, and section 599A(c)(1) of Title 28, Judiciary and Judicial Procedure.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security,

and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION  
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SUBCHAPTER XXV—TRANSITION;  
EFFECTIVE DATE; REPEALER

Editorial Notes

CODIFICATION

This subchapter is comprised of part Z, formerly part M, of title I of Pub. L. 90-351, as added by Pub. L. 96-157, § 2, and redesignated by Pub. L. 99-570, § 1552(a)(1), Pub. L. 101-647, §§ 241(a)(1)(A), 801(a)(1), Pub. L. 102-521, § 4(a)(1), Pub. L. 103-322, §§ 10003(a)(1), 20201(a)(1), 32101(a)(1), 40121(a)(1), 40231(a)(1), 50001(a)(1), 210201(a)(1), 210302(c)(1)(A), and Pub. L. 105-181, § 3(a)(1).

**§ 10541. Continuation of rules, authorities, and proceedings**

**(a) Continuing status until otherwise affected**

(1) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration which are in effect on December 27, 1979, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, the Office of Justice Assistance, Research, and Statistics or the Director of the Bureau of Justice Statistics, the National Institute of Justice, or the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this chapter or by operation of law.

(2) All orders, determinations, rules, regulations, and instructions issued under this chapter which are in effect on October 12, 1984, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Assistant Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Bureau of Justice Assistance with respect to their functions under this chapter or by operation of law.

**(b) Obligation by Director of National Institute of Justice of previously appropriated unused or reversionary funds for continuation of research and development projects or purposes of this chapter**

The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements, or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of this chapter as in effect on the day before December 27, 1979, based upon applications received under this chapter before December 27, 1979, or for purposes consistent with provisions of this chapter.

**(c) Obligation by Director of Bureau of Justice Statistics of pre-fiscal year 1980 appropriated funds for statistical projects or purposes of this chapter**

The Director of the Bureau of Justice Statistics may award new grants, enter into new contracts or cooperative agreements or otherwise obligate funds appropriated for fiscal years before 1980 for statistical projects to be expended in accordance with the provisions of this chapter, as in effect on the day before December 27, 1979, based upon applications received under this chapter before December 27, 1979, or for purposes consistent with provisions of this chapter.

**(d) Obligation by Administrator of Law Enforcement Assistance Administration of previously appropriated unused or reversionary funds or presently appropriated funds for continuation of projects or purposes of this chapter**

The Administrator of the Law Enforcement Assistance Administration may award new grants, enter into new contracts or cooperative agreements, approve comprehensive plans for the fiscal year beginning October 1, 1979, and otherwise obligate previously appropriated unused or reversionary funds or funds appropriated for the fiscal year beginning October 1, 1979, for the continuation of projects in accordance with the provisions of this chapter, as in effect on the day before December 27, 1979, or for purposes consistent with provisions of this chapter.

**(e) Pending suits, actions, or other proceedings unaffected**

The amendments made to this chapter by the Justice System Improvement Act of 1979 shall not affect any suit, action, or other proceeding commenced by or against the Government before December 27, 1979.

**(f) Appropriated funds available for audit matters and continuing programs and projects**

Nothing in this chapter prevents the utilization of funds appropriated for purposes of this chapter for all activities necessary or appropriate for the review, audit, investigation, and judicial or administrative resolution of audit matters for those grants or contracts that were awarded under this chapter. The final disposition and dissemination of program and project accomplishments with respect to programs and projects approved in accordance with this chapter, as in effect before December 27, 1979, which continue in operation beyond December 27, 1979, may be carried out with funds appropriated for purposes of this chapter.

**(g) Transfer of personnel pursuant to performance-of-functions standard; determination of interim positions for Administrator and Deputy Administrators by Attorney General**

Except as otherwise provided in this chapter, the personnel employed on December 27, 1979, by the Law Enforcement Assistance Administration are transferred as appropriate to the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice or the Bureau of Justice Statistics, considering the function to be performed by these organizational units and the functions previously performed by the em-