

1996—Subsec. (a). Pub. L. 104-132 inserted “or attempts, threatens, or conspires to do the same,” before “shall be fined under this title”.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 101-298, §1, May 22, 1990, 104 Stat. 201, provided that: “This Act [enacting this chapter and amending section 2516 of this title] may be cited as the ‘Biological Weapons Anti-Terrorism Act of 1989.’”

PURPOSE AND INTENT

Pub. L. 101-298, §2, May 22, 1990, 104 Stat. 201, provided that:

“(a) PURPOSE.—The purpose of this Act [see Short Title note above] is to—

“(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

“(2) protect the United States against the threat of biological terrorism.

“(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.”

§ 175a. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10¹ in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.¹

(Added Pub. L. 104-201, div. A, title XIV, §1416(c)(1)(A), Sept. 23, 1996, 110 Stat. 2723.)

Editorial Notes

REFERENCES IN TEXT

Section 382 of title 10, referred to in text, was renumbered section 282 of title 10, Armed Forces, by Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

§ 175b. Possession by restricted persons

(a) OFFENSE.—

(1) IN GENERAL.—It shall be unlawful for a restricted person to—

(A) ship, transport, or possess in or affecting interstate or foreign commerce any biological agent or toxin described in paragraph (2); or

(B) receive any biological agent or toxin described in paragraph (2) that has been shipped or transported in interstate or foreign commerce.

(2) AGENTS AND TOXINS COVERED.—A biological agent or toxin described in this paragraph is a biological agent or toxin that—

(A) is listed as a non-overlap or overlap select biological agent or toxin under part 73 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a); and

(B) is not excluded or exempted under part 73 of title 42, Code of Federal Regulations.

(3) PENALTY.—Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.

(b) TRANSFER TO UNREGISTERED PERSON.—

(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(c) UNREGISTERED FOR POSSESSION.—

(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(d) DEFINITIONS.—In this section:

(1) The term “select agent” means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(2) The term “restricted person” means an individual who—

(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(C) is a fugitive from justice;

(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(E) is an alien illegally or unlawfully in the United States;

¹ See References in Text note below.