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SENATE

{ REPORT
112-204

SAFE DOSES ACT

AUGUST 28, 2012.—Ordered to be printed

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Mr. LEAHY, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany S. 1002]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 1002) to prohibit theft of medical products, and for other purposes, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended do pass.

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I. BACKGROUND AND PURPOSE OF THE SAFE DOSES ACT

The purpose of this bill—entitled “Strengthening and Focusing Enforcement to Deter Organized Stealing and Enhance Safety Act,” or “SAFE DOSES Act”—is to combat large-scale theft of pre-retail medical cargo—life-saving drugs that millions of American citizens rely on to cure illness—before they enter the stream of commerce. These thefts put patients at risk that is posed by stolen medical products that are then mishandled, stored improperly, and reintroduced into the supply chain. For example, in 2010, over \$75 million

of prescription drugs—including treatments for cancer, heart disease, and neurological disorders including depression, ADHD and schizophrenia were stolen from a warehouse in Connecticut. Arrests were not made until two years later. In the meantime, untold amounts of these drugs entered the stream of commerce, potentially endangering those who purchased the drugs without knowing of their suspect origins.¹

The legislation increases sentences for the theft, transportation and storage of medical product cargo, enhances penalties for those who knowingly obtain stolen medical products for resale, and increases sentences when harm occurs (such as injury or death) or trust is broken (such as when a defendant is employed by an organization in the supply chain). The bill also addresses the increasingly serious problem of the theft of controlled substances from pharmacies—an offense that is already a Federal crime, but whose punishment bears reexamination in light of the public health crisis posed by prescription opioids, in particular.

The SAFE DOSES Act creates a new section within title 18 of the United States Code specifically to criminalize and punish the theft and trafficking of pre-retail medical products. The bill is targeted to address those who knowingly steal medical products before they enter the stream of commerce, and traffic in them before they reach authorized providers. The bill is not intended to address those who do not have knowledge of the nature or provenance of the products, and is not intended to capture inadvertent, accidental, or ignorant conduct. The bill is structured in such a way that mens rea is required for all elements of the offense, including the knowledge that the contraband pre-retail medical products in question were in fact unlawfully obtained.² The purpose and intent of the bill is to target for prosecution those knowingly involved in thefts, not individuals who unknowingly purchase or possess pre-retail medical products for personal use.

Finally, the bill provides additional tools to law enforcement, such as wiretaps, and provides restitution to victims injured by stolen medical products.

II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

A. INTRODUCTION OF THE BILL

The SAFE DOSES Act was introduced as S. 1002 on May 16, 2011, by Senator Schumer, Senator Bennet, Senator Blumenthal,

¹In addition to this incident, major recent instances of pre-retail medical product theft include (but are not limited to) the following: January 9, 2012, 785 packs of Alcon/Ciba Vision contact lenses were stolen en route to a distribution center in Georgia; October 20, 2011, nearly 100 thousand bottles of Actavis drugs, including 67,704 bottles of Oxycodone HCl (OxyContin) tablets, were stolen en route from Elizabeth, New Jersey to a distribution center in Kentucky; June 19, 2011, Abbott Diabetes Care reported that one tractor trailer load of diabetes care products (mainly monitors and test strips) were stolen from a shipping carrier facility in Louisville, Kentucky; May 14, 2011, thousands of doses of prescription drugs used to treat high blood pressure, antibiotic infections, depression and anxiety disorders, colitis, and rheumatoid arthritis were stolen while being delivered to a customer facility in the Northeast from Pfizer's Memphis, Tennessee manufacturing plant; May 3, 2011, endoscopic and urologic surgical devices produced by Boston Scientific Corporation were stolen en route to the company's sterilization facility (the products were already marked "sterile" though they had yet to be sterilized and could cause infection if used); March 9, 2011, hundreds of cases of infant formula products produced by Mead Johnson were stolen from a truck stop in Cuba, Missouri; October 3, 2010, thousands of over-the-counter and prescription drugs, including controlled pain killing and anti-anxiety medicines, were stolen in a burglary from a packaging facility in North Hollywood, California.

²See, e.g., *United States v. X-Citement Video*, 513 U.S. 64 (1994); *Staples v. United States*, 511 U.S. 600 (1994).

Senator Sherrod Brown, Senator Casey, Senator Coons, Senator Graham, Senator Klobuchar, Senator Kyl, Senator Lautenberg, Senator Lugar, Senator Bill Nelson, Senator Sessions, and Senator Whitehouse. The bill was referred to the Committee on the Judiciary. Since the date of introduction, Senator Alexander, Senator Ayotte, Senator Scott Brown, Senator Coats, Senator Coburn, Senator Cochran, Senator Corker, Senator Cornyn, Senator Feinstein, Senator Gillibrand, Senator Hagan, Senator Hatch, Senator Kirk, Senator Kohl, Senator Lee, Senator Menendez, Senator Portman, Senator Roberts, Senator Wicker, and Senator Wyden have joined as cosponsors.

B. COMMITTEE CONSIDERATION

The Committee on the Judiciary considered S. 1002 on March 8, 2012. Senator Schumer proposed an amendment in the nature of a substitute. The amendment was agreed to by unanimous consent. The Committee then voted to report the SAFE DOSES Act, as amended, favorably to the Senate by voice vote.

III. SECTION-BY-SECTION SUMMARY OF THE BILL

Section 1. Short title

This section provides that the legislation may be cited as the “Strengthening and Focusing Enforcement to Deter Organized Stealing and Enhance Safety Act” or “Safe Doses Act.”

Section 2. Theft of medical products

This section adds a new section 670 to Title 18, “Theft of medical products.”

(a) *Prohibited Conduct.* This subsection establishes the offenses of (1) stealing a “pre-retail medical product” or obtaining it by fraud; (2) falsifying the labeling or shipping of documents of pre-retail medical product; (3) possessing, transporting, or trafficking in a pre-retail product involved in a violation of (1) or (2); (4) fraudulent obtaining an expired or stolen pre-retail medical product; (5) fraudulent selling or distributing an expired or stolen pre-retail medical product; or (6) attempting or conspiring to violate (1) through (5).

(b) *Aggravated Offenses.* This subsection establishes an aggravated offense where (1) the defendant is an employee or agent of an organization in the supply chain for the pre-retail medical product or (2) the violation involves violence or a deadly weapon, or causes serious bodily injury or death, or in the defendant’s second offense under this section.

(c) *Criminal Penalties.* This subsection establishes that the penalty for a violation of this section shall be (1) up to 30 years if the offense causes serious bodily injury or death; (2) if the value of the pre-retail medical products is greater than \$5,000, up to 20 if the offense is aggravated for a reason other than serious bodily injury or death, and up to 15 years otherwise; or (3) up to 3 years in any other case.

(d) *Definitions.* This subsection defines the term “pre-retail medical product” as a medical product that has not yet been made available for retail purchase by a consumer; it defines a “medical product” as a drug, biological product, device, medical food or in-

fant formula, and incorporates existing U.S. Code definitions for each of those terms; it defines “supply chain” to include manufacturers, wholesalers, distributors, brokers, pharmacies, hospitals and security companies.

Section 3. Civil forfeiture

This section adds theft of pre-retail medical products to the list of offenses for which civil forfeiture is available.

Section 4. Penalties for theft-related offenses

This section amends a handful of statutes³ that prosecutors presently use in cases of large-scale cargo theft to say that, when the offense charged under those sections involve pre-retail medical products, they shall be punished under Section 670.

Section 5. Inclusion of new offense as RICO predicate

This section adds theft of medical products to the list of Racketeer Influenced and Corrupt Organizations Act.

Section 6. Amendment to extend wiretapping authority to new offense

This section adds theft of medical products to the list of offenses eligible for Title III wiretaps.

Section 7. Required restitution

This section adds theft of medical products to the list of crimes requiring a restitution order.

IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee sets forth, with respect to the bill, S. 1002, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 16, 2012.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1002, the Safe Doses Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1002—Safe Doses Act

CBO estimates that implementing S. 1002 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures

³ 18 U.S.C. § 659; 18 U.S.C. § 1952; 18 U.S.C. § 1957(b)(1); 18 U.S.C. § 2117; 18 U.S.C. § 2314; 18 U.S.C. § 2315.

apply. However, CBO estimates that any effects would be insignificant for each year.

S. 1002 would establish new Federal crimes relating to the theft of certain medical products. As a result, the government might be able to pursue criminal cases that it otherwise would not be able to prosecute. CBO expects that S. 1002 would apply to a relatively small number of additional offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under S. 1002 could be subject to civil and criminal fines, the Federal Government might collect additional fines if the legislation is enacted. Civil and criminal fines are recorded as revenues. Criminal fines are deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the relatively small number of cases likely to be affected.

S. 1002 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 1002.

VI. CONCLUSION

The SAFE DOSES Act, S. 1002, addresses crimes involving stolen pre-retail medical products, which pose a serious risk of injury to consumers. It does so by strengthening and modernizing the Federal criminal code to provide well-established and effective investigative tools to law enforcement. This legislation is necessary to combat increasingly sophisticated criminal organizations that traffic in stolen medical products without regard for public safety.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1002, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

* * * * *

PART I—CRIMES

CHAPTER 31—EMBEZZLEMENT AND THEFT

* * * * *

§ 659. Interstate or foreign shipments by carrier; State prosecutions

* * * * *

Whoever embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any pipeline system, railroad car, wagon, motortruck, trailer, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air cargo container, air terminal, airport, aircraft terminal or air navigation facility, or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility, with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property; or

Whoever buys or receives or has in his possession any such goods or chattels, knowing the same to have been embezzled or stolen; or

Whoever embezzles, steals, or unlawfully takes, carries away, or by fraud or deception obtains with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or breaks into, steals, takes, carries away, or conceals any of the contents of such baggage, or buys, receives, or has in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been embezzled or stolen; or

Whoever embezzles, steals, or unlawfully takes by any fraudulent device, scheme, or game, from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon any money, baggage, goods, or chattels, or whoever buys, receives, or has in his possession any such money, baggage, goods, or chattels, knowing the same to have been embezzled or stolen—

Shall be fined under this title or imprisoned not more than 10 years, or both, but if the amount or value of such money, baggage, goods, or chattels is less than \$1,000, shall be fined under this title or imprisoned for not more than 3 years, or both.

If the offense involves a pre-retail medical product (as defined in section 670), it shall be punished under section 670 unless the penalties provided for under this section are greater.

The offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, or chattels.

The carrying or transporting of any such money, freight, express, baggage, goods, or chattels in interstate or foreign commerce, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties under this section for unlawful taking, and the offense shall be deemed to have been committed in any district into which such money, freight, express, baggage, goods, or chattels shall have been removed or into which

the same shall have been brought by such offender. To establish the interstate or foreign commerce character of any shipment in any prosecution under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

* * * * *

§670. Theft of Medical Products

(a) *PROHIBITED CONDUCT.—Whoever, in, or using any means or facility of, interstate or foreign commerce—*

(1) embezzles, steals, or by fraud or deception obtains, or knowingly and unlawfully takes, carries away, or conceals, a pre-retail medical product;

(2) knowingly and falsely makes, alters, forges, or counterfeits the labeling or documentation (including documentation relating to origination or shipping) of a pre-retail medical product;

(3) knowingly possesses, transports, or traffics in a pre-retail medical product that was involved in a violation of paragraph (1) or (2);

(4) with intent to defraud, buys, or otherwise obtains, a pre-retail medical product that has expired or been stolen;

(5) with intent to defraud, sells, or distributes, a pre-retail medical product that is expired or stolen; or

(6) attempts or conspires to violate any of paragraphs (1) through (5); shall be punished as provided in subsection (c) and subject to the other sanctions provided in this section.

(b) *AGGRAVATED OFFENSES.—An offense under this section is an aggravated offense if—*

(1) the defendant is employed by, or is an agent of, an organization in the supply chain for the pre-retail medical product; or

(2) the violation—

(A) involves the use of violence, force, or a threat of violence or force;

(B) involves the use of a deadly weapon;

(C) results in serious bodily injury or death, including serious bodily injury or death resulting from the use of the medical product involved; or

(D) is subsequent to a prior conviction for an offense under this section.

(c) **CRIMINAL PENALTIES.**—Whoever violates subsection (a)—

(1) if the offense is an aggravated offense under subsection (b)(2)(C), shall be fined under this title or imprisoned not more than 30 years, or both;

(2) if the value of the medical products involved in the offense is \$5,000 or greater, shall be fined under this title, imprisoned for not more than 15 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 20 years; and

(3) in any other case, shall be fined under this title, imprisoned for not more than 3 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 5 years.

(d) **CIVIL PENALTIES.**—Whoever violates subsection (a) is subject to a civil penalty in an amount not more than the greater of—

(1) three times the economic loss attributable to the violation;

or

(2) \$1,000,000.

(e) **DEFINITIONS.**—In this section—

(1) the term “pre-retail medical product” means a medical product that has not yet been made available for retail purchase by a consumer;

(2) the term “medical product” means a drug, biological product, device, medical food, or infant formula;

(3) the terms “device”, “drug”, “infant formula”, and “labeling” have, respectively, the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act;

(4) the term “biological product” has the meaning given the term in section 351 of the Public Health Service Act;

(5) the term “medical food” has the meaning given the term in section 5(b) of the Orphan Drug Act; and

(6) the term “supply chain” includes manufacturer, wholesaler, repacker, own-labeled distributor, private-label distributor, jobber, broker, drug trader, transportation company, hospital, pharmacy, or security company.

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CHAPTER 46—FORFEITURE

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§ 981(a)(1). Civil Forfeiture

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(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 656, 657, 670, 842, 844, 1005, 1006, 1007, 1014, 1028, 1029, 1030, 1032, or 1344 of this title or any offense constituting “specified unlawful activity” (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

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CHAPTER 95—RACKETEERING

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§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

* * * * *

(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

- (1) distribute the proceeds of any unlawful activity; or
- (2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform—

(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.

(b) As used in this section

(i) “unlawful activity” means

(1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States,

(2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or

(3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title and

(ii) the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Attorney General.

(d) *If the offense under this section involves an act described in paragraph (1) or (3) of subsection (a) and also involves a pre-retail medical product (as defined in section 670), the punishment for the offense shall be the same as the punishment for an offense under section 670, unless the punishment under subsection (a) is greater.*

* * * * *

§ 1957(b). Engaging in monetary transactions in property derived from specified unlawful activity

* * * * *

(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years or both. *If the*

offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this subsection is greater.

(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.

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CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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§ 1961(1)(B). Definitions

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(1) “racketeering activity” means

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(B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), *section 670 (relating to theft of medical products*, sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1592 (relating to peonage, slavery, and trafficking in persons), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare

fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials)

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CHAPTER 103—ROBBERY AND BURGLARY

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§ 2117. Breaking or entering carrier facilities

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Whoever breaks the seal or lock of any railroad car, vessel, aircraft, motortruck, wagon or other vehicle or of any pipeline system, containing interstate or foreign shipments of freight or express or other property, or enters any such vehicle or pipeline system with intent in either case to commit larceny therein, shall be fined under this title or imprisoned not more than ten years, or both. *If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater.*

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision

of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

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CHAPTER 113—STOLEN PROPERTY

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§ 2314. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

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Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud; or

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in interstate or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of \$5,000 or more; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater.

This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.

* * * * *

§ 2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

* * * * *

Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of \$500 or more, which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken; or

Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any falsely made, forged, altered, or counterfeited securities or tax stamps, or pledges or accepts as security for a loan any falsely made, forged, altered, or counterfeited securities or tax stamps, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

Whoever receives in interstate or foreign commerce, or conceals, stores, barter, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater.

This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.

For purposes of this section, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

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CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

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§ 2516(1). Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

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(1) The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division or National Security Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

* * *

(r) any criminal violation of section 1 (relating to illegal restraints of trade or commerce), 2 (relating to illegal monopolizing of trade or commerce), or 3 (relating to illegal restraints of trade or commerce in territories or the District of Columbia) of the Sherman Act (15 U.S.C. 1, 2, 3); **[or]**

(s) *any violation of section 670 (relating to theft of medical products); or*

(t) any conspiracy to commit any offense described in any subparagraph of this paragraph.

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PART II—CRIMINAL PROCEDURE

CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

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§ 3663A(c)(1)(A). Mandatory restitution to victims of certain crimes

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(c)

(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

(A) that is—

(i) a crime of violence, as defined in section 16;

(ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856 (a)), including any offense committed by fraud or deceit; **[or]**

(iii) an offense described in section 1365 (relating to tampering with consumer products); **[and]** *or*

(iv) an offense under section 670 (relating to theft of medical products); and

(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

