

802(25)¹ of this title and in conformity with an exemption granted under section 956(a) of this title.

(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances or list I chemicals for purposes of importation and exportation.

(Pub. L. 91-513, title III, §1007, Oct. 27, 1970, 84 Stat. 1288; Pub. L. 98-473, title II, §523, Oct. 12, 1984, 98 Stat. 2076; Pub. L. 103-200, §3(e), Dec. 17, 1993, 107 Stat. 2337.)

REFERENCES IN TEXT

Section 802(25) of this title, referred to in subsec. (b)(1)(C), was redesignated section 802(26) of this title by Pub. L. 98-473, title II, §507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99-570, title I, §1003(b)(2), Oct. 27, 1986, 100 Stat. 3207-6.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-200, §3(e)(1)(A), inserted “or list I chemical” after “controlled substance”.

Subsec. (a)(2). Pub. L. 103-200, §3(e)(1)(B), substituted “or list I chemical,” for “in schedule I, II, III, IV, or V.”

Subsec. (b)(1). Pub. L. 103-200, §3(e)(2)(A), inserted “or list I chemical” after “controlled substance” in introductory provisions and subpar. (B).

Subsec. (b)(2). Pub. L. 103-200, §3(e)(2)(B), inserted “or list I chemicals” after “controlled substances”.

1984—Subsec. (a)(2). Pub. L. 98-473 inserted reference to schedule V.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103-200, set out as a note under section 802 of this title.

PROVISIONAL REGISTRATION

Section 1104 of Pub. L. 91-513, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a)(1) Any person—

“(A) who is engaged in importing or exporting any controlled substance on the day before the effective date of section 1007 [May 1, 1971],

“(B) who notifies the Attorney General that he is so engaged, and

“(C) who is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act [section 360 of this title] or under section 4722 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4722 of title 26],

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 1008 [section 958 of this title] for the import or export (as the case may be) of controlled substances.

“(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of part A of this title [this subchapter].

“(b) The provisions of section 304 [section 824 of this title], relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

“(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

“(1) the date on which such person has registered with the Attorney General under section 1008 [section 958 of this title] or has had his registration denied under such section, or

“(2) such date as may be prescribed by the Attorney General for registration of importers or exporters, as the case may be, whichever occurs first.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 954, 960, 965 of this title.

§ 958. Registration requirements

(a) Applicants to import or export controlled substances in schedule I or II

The Attorney General shall register an applicant to import or export a controlled substance in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 823(a) of this title shall be considered.

(b) Activity limited to specified substances

Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.

(c) Applicants to import controlled substances in schedule III, IV, or V or to export controlled substances in schedule III or IV; applicants to import or export list I chemicals

(1) The Attorney General shall register an applicant to import a controlled substance in schedule III, IV, or V or to export a controlled substance in schedule III or IV, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (6) of section 823(d) of this title shall be considered.

(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 802(39)(A)(iv) of this title.

(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 823(h) of this title.

(d) Denial of application

(1) The Attorney General may deny an application for registration under subsection (a) of this section if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a) of this section) and with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.

(2) The Attorney General may deny an application for registration under subsection (c) of this section, or revoke or suspend a registration under subsection (a) or (c) of this section, if he

¹ See References in Text note below.

determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c) of this section) or with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.

(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, or list I chemical or chemicals, with respect to which grounds for revocation or suspension exist.

(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances or list I chemicals owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances or list I chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances or list I chemicals. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances or list I chemicals (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances or list I chemicals in accordance with section 881(e) of this title.

(e) Registration period

No registration shall be issued under this subchapter for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, sections 822(f), 825, 827, and 830 of this title shall apply to persons registered under

this section to the same extent such sections apply to persons registered under section 823 of this title.

(f) Rules and regulations

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration of importers and exporters of controlled substances or list I chemicals under this section.

(g) Scope of authorized activity

Persons registered by the Attorney General under this section to import or export controlled substances or list I chemicals may import or export (and for the purpose of so importing or exporting, may possess) such substances to the extent authorized by their registration and in conformity with the other provisions of this subchapter and subchapter I of this chapter.

(h) Separate registrations for each principal place of business

A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances or list I chemicals.

(i) Emergency situations

Except in emergency situations as described in section 952(a)(2)(A) of this title, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 952(a) of this title authorizing the importation of such a substance, the Attorney General shall give manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

(Pub. L. 91-513, title III, §1008, Oct. 27, 1970, 84 Stat. 1289; Pub. L. 98-473, title II, §§524, 525, Oct. 12, 1984, 98 Stat. 2076; Pub. L. 99-570, title I, §1866(d), Oct. 27, 1986, 100 Stat. 3207-55; Pub. L. 103-200, §3(f), Dec. 17, 1993, 107 Stat. 2337.)

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsecs. (a), (c), and (i), are set out in section 812(c) of this title.

This subchapter, referred to in subsecs. (d)(4) and (g), was in the original "this title", meaning title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

CODIFICATION

In subsecs. (a) and (d), "May 1, 1971" substituted for "the effective date of this section" and "the effective date of this part", respectively.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103-200, §3(f)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(3). Pub. L. 103-200, §3(f)(2)(A), inserted "or list I chemical or chemicals," after "substances,".

Subsec. (d)(6). Pub. L. 103-200, §3(f)(2)(B), inserted "or list I chemicals" after "controlled substances" whenever appearing.

Subsec. (e). Pub. L. 103-200, §3(f)(3), inserted reference to section 830 of this title.

Subsecs. (f) to (h). Pub. L. 103-200, §3(f)(4), inserted "or list I chemicals" after "controlled substances".

1986—Subsec. (e). Pub. L. 99-570 substituted "sections" for first reference to "section".

1984—Subsec. (b). Pub. L. 98-473, §524, substituted "Registration granted under this section shall not enti-

title a registrant to import or export controlled substances other than specified in the registration” for “Registration granted under subsection (a) of this section shall not entitle a registrant to import or export controlled substances in schedule I or II other than those specified in the registration”.

Subsecs. (d) to (i). Pub. L. 98-473, § 525, added subsec. (d), redesignated former subsec. (d) as (e) and struck out reference to section 824 of this title, and redesignated former subsecs. (e) to (h) as (f) to (i), respectively.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103-200, set out as a note under section 802 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 844, 957, 965 of this title.

§ 959. Possession, manufacture, or distribution of controlled substance

(a) Manufacture or distribution for purpose of unlawful importation

It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II or flunitrazepam or listed chemical—

(1) intending that such substance or chemical will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States; or

(2) knowing that such substance or chemical will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

(b) Possession, manufacture, or distribution by person on board aircraft

It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

(1) manufacture or distribute a controlled substance or listed chemical; or

(2) possess a controlled substance or listed chemical with intent to distribute.

(c) Acts committed outside territorial jurisdiction of United States; venue

This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

(Pub. L. 91-513, title III, § 1009, Oct. 27, 1970, 84 Stat. 1289; Pub. L. 99-570, title III, § 3161(a), Oct. 27, 1986, 100 Stat. 3207-94; Pub. L. 104-237, title I, § 102(a), (b), Oct. 3, 1996, 110 Stat. 3100; Pub. L. 104-305, § 2(b)(2)(A), Oct. 13, 1996, 110 Stat. 3807.)

REFERENCES IN TEXT

Schedules I and II, referred to in subsec. (a), are set out in section 812(c) of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-305 inserted “or flunitrazepam” after “schedule I or II” in introductory provisions.

Pub. L. 104-237, § 102(a), inserted “or listed chemical” after “schedule I or II” in introductory provisions and “or chemical” after “substance” in pars. (1) and (2).

Subsec. (b). Pub. L. 104-237, § 102(b), inserted “or listed chemical” after “controlled substance” in pars. (1) and (2).

1986—Pub. L. 99-570 designated first sentence as subsec. (a) and inserted “or into waters within a distance of 12 miles of the coast of the United States” in pars. (1) and (2), added subsec. (b), and designated last two sentences as subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 960 of this title; title 18 sections 5032, 5038; title 28 section 994.

§ 960. Prohibited acts A

(a) Unlawful acts

Any person who—

(1) contrary to section 952, 953, or 957 of this title, knowingly or intentionally imports or exports a controlled substance,

(2) contrary to section 955 of this title, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or

(3) contrary to section 959 of this title, manufactures, possesses with intent to distribute, or distributes a controlled substance,

shall be punished as provided in subsection (b) of this section.

(b) Penalties

(1) In the case of a violation of subsection (a) of this section involving—

(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or