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CONGRESSIONAL RECORD — HOUSE

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of the costs of the programs or projects contained in the approved application.

§ 1312. Grants funds awarded under section 1309 of this title shall not be used for such a funds acquisition or construction projects if (a) such facilities are owned, operated, and maintained by the local government, (b) such facilities include facilities that are not primarily for public use, and (c) the project would be eligible for other federal assistance available to local entities. (f) A grant agreement under this section shall be subject to the terms and conditions specified in the grant application.

§ 1301. The Secretary of the Interior shall submit a report to Congress not later than 180 days after the date of enactment of this act that describes the programs, projects, and activities funded under this section and assesses the effectiveness of those programs, projects, and activities. The report shall be submitted in a manner that ensures that it is accessible to the public.

§ 1302. The Secretary of the Interior shall make available to the public, on a regular basis, a report that describes the programs, projects, and activities funded under this section and assesses the effectiveness of those programs, projects, and activities.

§ 1303. The Secretary of the Interior shall make available to the public, on a regular basis, a report that describes the programs, projects, and activities funded under this section and assesses the effectiveness of those programs, projects, and activities.
agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) If it is made clear to a court that it is not a request that involves access to records maintained by the Federal Bureau of Investigation pertaining to intelligence or counterterrorism, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

SEC. 3. PAYMENTS AND FEES PAYABLE.

Paragraph (A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees limited to the processing of requests under this section and establishing procedures and guidelines for determining the fees charged for searching, duplicating, and answering requests for records or information. The regulations shall provide a uniform schedule of fees for all agencies. Such agency regulations shall provide that-

"(1) fees shall be limited to reasonable standard charges for document search, duplication, and mail, when records are requested for commercial use;

"(2) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research, or a representative of the news media;

"(3) for any request not described in (1) or (2), fees shall be limited to reasonable standard charges for documents search and duplication;

"(4) documents shall be furnished without any charge or at a charge reduced below the fees established under clause (1) if disclosure of the information is in the public interest and is likely to contribute significantly to public understanding of the operations or activities of the government and not primarily in the commercial interest of the requester;

"(5) fee schedules shall provide for the recovery of only the direct costs of search, duplication, and review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the document is responsive. Review costs may not include costs incurred in resolving issues of law or policy that may be raised in the course of processing a request for records under this section. No fee may be charged by any agency under this section.

"(6) the costs of routine collection and processing of the fees described in subsection (a) shall be equal to or exceed the amount of the fee; or

"(7) for any request described in clause (6), the fees limited to the first one hundred pages of duplication.

No agency may require advance payment of fees in order to determine whether a requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $10.

"(vii) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular categories of records.

"(viii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo; Provided, That the court's review of the matter shall be limited to the record before the agency.

SEC. 984. EFFECTIVE DATE.

(a) The amendments made by section 1832 shall be effective on the date of enactment of this Act, and shall apply with respect to any request for records whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

(b) The amendments made by section 1833 shall be effective 90 days after the date of enactment of this Act, except that regulations to implement such amendments shall be promulgated by such 90th day.

(c) The amendments made by section 1835 shall apply with respect to any request for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date, except that review charges applicable to records requested by a declaratory judgment action shall not be applied by an agency to requests made before the effective date specified in paragraph (a) of this subsection or before the amendment of the regulations.

Subtitle G—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

SEC. 1833. SHORT TITLE.

This subtitle may be cited as the "Mail Order Drug Paraphernalia and Control Act".

SEC. 1834. OFFENSE.

(a) It is unlawful for any person—

(1) to sell or deliver, or attempt to sell or deliver, any of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia;

(2) to offer for sale or transportation in interstate or foreign commerce drug paraphernalia;

(b) Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $1,000.

(c) Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the application of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of 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) The term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, converting, concealing, producing, processing, preparing, storing, injecting, inking, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (Title II of Public Law 91-513). It includes items primarily intended or designed for use in injecting, inhaling, or otherwise introducing marihuana, cocaine, hashish, hashish oil, or amphetaamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, hashish heads, or punctured metal beads;—

(2) water pipes;

(3) cardboards and devices;

(4) smoking and carburetion caps;

(5) roach clips; meaning objects used to hold drug material, such as a marijuana cigarette, that are too small or too short to be held in the hand;

(6) miniature spoons with individual capacity for less than a cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillers;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers or filters;

(15) cocaine freebase kits.

(e) In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instruction, 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;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier or producer of the item 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) A defendant shall not apply to—

(1) any person acting in the State, or Federal law to manufacture, possess, or distribute such items;

(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 primarily intended for use with tobacco products, including any pipe, paper, or accessory.

SEC. 1835. EFFECTIVE DATE.

This subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle H—Manufacturing Operations

SEC. 1841. MANUFACTURING OPERATIONS.

(a) Part D of the Controlled Substances Act is amended by adding at the end thereof the following section:

ESTABLISHMENT OF MANUFACTURING OPERATIONS

"Sec. 416. (a) Except as authorized by this title, it shall be unlawful to—

(1) knowingly open or maintain any facility or place for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any controlled substance, building, room, or enclosure, either as an owner, agent, employee, employer, or mortgagee, knowingly or unknowingly, or any article that make available for use, with or without compensation, the building, room, or enclosure, for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment not more than 30 years, or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual or entity.

(b) Section 405A of the Controlled Substances Act is amended—

(1) in subsection (a) by inserting after "Section 411(a)/(1)" the following: "or section 416";