

112TH CONGRESS
2D SESSION

H. R. 4223

To amend title 18, United States Code, to prohibit theft of medical products,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2012

Mr. SENSENBRENNER (for himself, Ms. LINDA T. SÁNCHEZ of California, Mr. COBLE, Mr. GALLEGLY, Mr. PIERLUISI, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit theft
of medical products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Doses Act”.

5 **SEC. 2. THEFT OF MEDICAL PRODUCTS.**

6 (a) PROHIBITED CONDUCT AND PENALTIES.—Chap-
7 ter 31 of title 18, United States Code, is amended by add-
8 ing at the end the following:

1 **“§ 670. Theft of medical products**

2 “(a) PROHIBITED CONDUCT.—Whoever, in or affect-
3 ing interstate or foreign commerce—

4 “(1) embezzles, steals, or unlawfully takes, car-
5 ries away, or conceals, or by fraud or deception ob-
6 tains, a pre-retail medical product;

7 “(2) falsely makes, alters, forges, or counter-
8 feits the labeling or documentation (including docu-
9 mentation relating to origination or shipping) of a
10 pre-retail medical product;

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

14 “(4) with intent to defraud, buys, or otherwise
15 obtains, a pre-retail medical product that has ex-
16 pired or been stolen;

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

19 or

20 “(6) attempts or conspires to violate any of
21 paragraphs (1) through (5);

22 shall be punished as provided in subsection (c) and subject
23 to the other sanctions provided in this section.

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

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

4 “(2) the violation—

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

7 “(B) involves the use of a deadly weapon;

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

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

14 “(c) CRIMINAL PENALTIES.—Whoever violates sub-
15 section (a)—

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

19 “(2) if the value of the medical products in-
20 volved in the offense is \$5,000 or greater, shall be
21 fined under this title, imprisoned for not more than
22 15 years, or both, but if the offense is an aggravated
23 offense other than one under subsection (b)(2)(C),
24 the maximum term of imprisonment is 20 years; and

1 “(3) in any other case, shall be fined under this
2 title, imprisoned for not more than 3 years, or both.

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

6 “(1) three times the economic loss attributable
7 to the violation; or

8 “(2) \$1,000,000.

9 “(e) DEFINITIONS.—In this section—

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

13 “(2) the term ‘medical product’ means a drug,
14 biological product, device, medical food, or infant
15 formula;

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

20 “(4) the term ‘biological product’ has the mean-
21 ing given the term in section 351 of the Public
22 Health Service Act;

23 “(5) the term ‘medical food’ has the meaning
24 given the term in section 5(b) of the Orphan Drug
25 Act; and

1 “(6) the term ‘supply chain’ includes manufac-
2 turer, wholesaler, repacker, own-labeled distributor,
3 private-label distributor, jobber, broker, drug trader,
4 transportation company, hospital, pharmacy, or se-
5 curity company.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 31 of title 18, United States
8 Code, is amended by adding after the item relating to sec-
9 tion 669 the following:

 “670. Theft of medical products.”.

10 **SEC. 3. CIVIL FORFEITURE.**

11 Section 981(a)(1)(C) of title 18, United States Code,
12 is amended by inserting “670,” after “657,”.

13 **SEC. 4. PENALTIES FOR THEFT-RELATED OFFENSES.**

14 (a) INTERSTATE OR FOREIGN SHIPMENTS BY CAR-
15 RIER.—Section 659 of title 18, United States Code, is
16 amended by adding at the end of the fifth undesignated
17 paragraph the following: “If the offense involves a pre-
18 retail medical product (as defined in section 670), the pun-
19 ishment for the offense is the same as the punishment for
20 an offense under section 670 if the maximum punishment
21 under that section is greater than that provided in this
22 section.”.

23 (b) RACKETEERING.—

1 (1) TRAVEL ACT VIOLATIONS.—Section 1952 of
2 title 18, United States Code, is amended by adding
3 that the end the following:

4 “(d) If the offense under this section involves an act
5 described in paragraph (1) or (3) of subsection (a) and
6 also involves a pre-retail medical product (as defined in
7 section 670), the punishment for the offense is the same
8 as the punishment for an offense under section 670 if the
9 maximum punishment under that section is greater than
10 that provided in this section.”.

11 (2) MONEY LAUNDERING.—Section 1957(b)(1)
12 of title 18, United States Code, is amended by add-
13 ing at the end the following: “If the offense involves
14 a pre-retail medical product (as defined in section
15 670) the punishment for the offense is the same as
16 the punishment for an offense under section 670 if
17 the maximum punishment under that section is
18 greater than that provided in this section.”

19 (c) BREAKING OR ENTERING CARRIER FACILI-
20 TIES.—Section 2117 of title 18, United States Code, is
21 amended by adding at the end of the first undesignated
22 paragraph the following: “If the offense involves a pre-
23 retail medical product (as defined in section 670) the pun-
24 ishment for the offense is the same as the punishment for
25 an offense under section 670 if the maximum punishment

1 under that section is greater than that provided in this
2 section.”.

3 (d) STOLEN PROPERTY.—

4 (1) TRANSPORTATION OF STOLEN GOODS AND
5 RELATED OFFENSES.—Section 2314 of title 18,
6 United States Code, is amended by adding at the
7 end of the sixth undesignated paragraph the fol-
8 lowing: “If the offense involves a pre-retail medical
9 product (as defined in section 670) the punishment
10 for the offense is the same as the punishment for an
11 offense under section 670 if the maximum punish-
12 ment under that section is greater than that pro-
13 vided in this section.”.

14 (2) SALE OR RECEIPT OF STOLEN GOODS AND
15 RELATED OFFENSES.—Section 2315 of title 18,
16 United States Code, is amended by adding at the
17 end of the fourth undesignated paragraph the fol-
18 lowing: “If the offense involves a pre-retail medical
19 product (as defined in section 670) the punishment
20 for the offense is the same as the punishment for an
21 offense under section 670 if the maximum punish-
22 ment under that section is greater than that pro-
23 vided in this section.”.

1 **SEC. 5. AMENDMENT TO EXTEND WIRETAPPING AUTHOR-**
2 **ITY TO NEW OFFENSE.**

3 Section 2516(1) of title 18, United States Code, is
4 amended—

5 (1) by redesignating paragraph (s) as para-
6 graph (t);

7 (2) by striking “or” at the end of paragraph
8 (r); and

9 (3) by inserting after paragraph (r) the fol-
10 lowing:

11 “(s) any violation of section 670 (relating to
12 theft of medical products); or”.

13 **SEC. 6. REQUIRED RESTITUTION.**

14 Section 3663A(c)(1)(A) of title 18, United States
15 Code, is amended—

16 (1) in clause (ii), by striking “or” at the end;

17 (2) in clause (iii), by striking “and” at the end
18 and inserting “or”; and

19 (3) by adding at the end the following:

20 “(iv) an offense under section 670 (relat-
21 ing to theft of medical products); and”.

22 **SEC. 7. DIRECTIVE TO UNITED STATES SENTENCING COM-**
23 **MISSION.**

24 (a) IN GENERAL.—Pursuant to its authority under
25 section 994 of title 28, United States Code, and in accord-
26 ance with this section, the United States Sentencing Com-

1 mission shall review and, if appropriate, amend the Fed-
2 eral sentencing guidelines and policy statements applicable
3 to persons convicted of offenses under section 670 of title
4 18, United States Code, as added by this Act, section
5 2118 of title 18, United States Code, or any another sec-
6 tion of title 18, United States Code, amended by this Act,
7 to reflect the intent of Congress that penalties for such
8 offenses be sufficient to deter and punish such offenses,
9 and appropriately account for the actual harm to the pub-
10 lic from these offenses.

11 (b) REQUIREMENTS.—In carrying out this section,
12 the United States Sentencing Commission shall—

13 (1) consider the extent to which the Federal
14 sentencing guidelines and policy statements appro-
15 priately reflect—

16 (A) the serious nature of such offenses;

17 (B) the incidence of such offenses; and

18 (C) the need for an effective deterrent and
19 appropriate punishment to prevent such of-
20 fenses;

21 (2) consider establishing a minimum offense
22 level under the Federal sentencing guidelines and
23 policy statements for offenses covered by this Act;

1 (3) account for any additional aggravating or
2 mitigating circumstances that might justify excep-
3 tions to the generally applicable sentencing ranges;

4 (4) ensure reasonable consistency with other
5 relevant directives, Federal sentencing guidelines
6 and policy statements;

7 (5) make any necessary conforming changes to
8 the Federal sentencing guidelines and policy state-
9 ments; and

10 (6) ensure that the Federal sentencing guide-
11 lines and policy statements adequately meet the pur-
12 poses of sentencing set forth in section 3553(a)(2)
13 of title 18, United States Code.

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