

COMPARISON OF BILLS TO REGULATE
CONTROLLED DANGEROUS SUB-
STANCES AND TO AMEND THE
NARCOTIC AND DRUG
LAWS

PREPARED FOR THE USE OF THE
COMMITTEE ON WAYS AND MEANS
OF THE
U.S. HOUSE OF REPRESENTATIVES
BY THE
STAFFS



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COMPARISON OF LEGISLATION TO REGULATE CONTROLLED DANGEROUS SUBSTANCES AND TO AMEND NARCOTICS AND DRUGS LAWS

PART ONE—BACKGROUND

Actions taken by Administrations

In 1968, there was a reorganization of the agencies responsible for control of narcotics and other dangerous drugs (Reorganization Plan No. 1 of 1968). Under the reorganization plan, these drug enforcement agencies of the Department of Health, Education, and Welfare and the Treasury Department (except those involved with customs) were merged and transferred to the Department of Justice as the Bureau of Narcotics and Dangerous Drugs.

With the centralization of the drug enforcement activities in a single agency of the Department of Justice, the Administration also desired to collect the diverse drug control and enforcement laws in a single statute. These laws now are found in various titles of the United States Code and deal with law enforcement, research, educational and related control activities.

In July of 1969, the Administration sent to the Congress its recommendations with respect to drug control. The primary purpose of the recommendations was to reorganize the existing narcotics and dangerous drugs control laws and to place them in a single statute to be enforced—in accordance with the 1968 reorganization plan—by the Bureau of Narcotics and Dangerous Drugs.

Congressional action

In the Senate the Administration's recommendations were introduced on July 16, 1969, as S. 2637, the proposed Controlled Dangerous Substances Act of 1969, and referred to the Judiciary Committee. The Judiciary Subcommittee on Juvenile Delinquency held hearings on the bill and on S. 1895. The full committee reported a clean bill, S. 3246, which is essentially the same as the Administration proposal except for the revision of the existing penalty structure.

The Senate Judiciary Committee's report on S. 3246 (S. Rept. 91-613) states that the overall purpose of the bill is to improve the administration and regulation of the manufacture, importation and exportation of controlled dangerous substances so that the widespread diversion presently occurring can be halted. The bill classifies the drugs subject to control in specific schedules according to their chemical properties, psychological and physical effects, and potential for abuse.

The Senate passed the bill on January 28, 1970.

In the House the original Administration proposal was divided into two parts and introduced as two separate measures: H.R. 13742, the "Controlled Narcotic Drug Act of 1969" introduced on September 11, 1969, by Chairman Mills and Mr. Byrnes and referred to the Com-

mittee on Ways and Means; and H.R. 13743, the "Controlled Depressant and Stimulant Drug Act of 1969," introduced the same day by Chairman Staggers and Mr. Springer of the Committee on Interstate and Foreign Commerce and referred to that committee. The Subcommittee on Public Health and Welfare of the Interstate and Foreign Commerce Committee held hearings on H.R. 13743 and reported a clean bill, H.R. 18583, to the full committee.

On May 6, 1970, Chairman Mills and Mr. Byrnes introduced H.R. 17463, which is essentially the Senate-passed bill except for a few minor changes recommended by the Administration. This bill is supported by the Administration.

The following is a comparison of H.R. 17463 with H.R. 18583, the bill currently before the Interstate and Foreign Commerce Committee.¹

TWO.—COMPARISON OF H.R. 17436 WITH H.R. 18583

FINDINGS AND DECLARATIONS, DEFINITIONS, REPEALING AMENDMENTS, AND CONFORMING AMENDMENTS

Findings and declarations

Administration bill (sec. 101, p. 3).—The first section of the bill states that Congress finds and declares the following with respect to recodifying the various drug control and enforcement laws under one piece of legislation:

(1) It is desirable to remove the tax provisions from the Internal Revenue Code relating to narcotic drugs and marihuana and to establish fees instead to offset the costs of regulating and controlling these substances;

(2) Reasonable fees should be levied on those engaged in the manufacture, distribution, and dispensation of depressant, stimulant, and hallucinogenic drugs;

(3) Many of the drugs covered have a useful and legitimate medical purpose, but illegal importation exportation manufacture, distribution, possession and improper use of these substances have detrimental effects on the health and welfare of people;

(4) Federal regulation and control of such drugs is therefore required to manage the drug abuse problem and the traffic in drugs on the international (through U.S. participation in the Single Convention on Narcotic Drugs, 1961), national, and State and local levels; and

(5) Federal regulation and control of intrastate movement in such drugs is essential to the effective control of interstate and foreign movement.

Commerce Committee bill (sec. 101, p. 12).—This section is generally similar to the Administration bill, except that the Commerce Committee findings and declarations do not include reference to the removal from the Internal Revenue Code of the tax provisions relating to narcotics and marihuana nor the need for imposition of fees in place of such taxes. In addition, no reference is made to the U.S. participation in the international Single Convention on Narcotic Drugs, 1961.

¹ It should be noted that these bills are not directly comparable in that H.R. 18583 does not cover narcotic rugs or marihuana.

Definitions

Administration bill (sec. 102, p. 5).—This section establishes the legal definition of the major terms used throughout the bill:

(1) the types or classes of individuals whose activities or involvement with drugs are regulated by the bill—"addict," "agent," "dispenser," "distributor," "manufacturer," "practitioner," and "ultimate user";

(2) the processes of drug transactions that are regulated under the bill—"administer," "control," "dispense," "distribute," "manufacture," "production," and "net disposal";

(3) the classes, categories, or basic substances covered under the bill—"controlled dangerous substance," "counterfeit substance," "depressant or stimulant drug," "drug," "marihuana," "narcotic drug," "opiate," "opium poppy," "poppy straw," and "immediate precursor"; and

(4) other terms—"Bureau of Narcotics and Dangerous Drugs," "Department," "State," and "United States."

Many of the definitions in this section deal with words that presently have common and accepted usage. Wherever a term has a previously accepted meaning within the United States Code, that definition has been incorporated.

Definitions of particular importance which are new to the statute include the following terms:

(1) "Controlled dangerous substances." The scope of this definition is broader than existing law. This deals with "substances" rather than drugs or narcotics, and "substances" is defined to include any narcotic, depressant, stimulant, or hallucinogenic drug and their precursors. Alcoholic beverages and tobacco are specifically excluded.

(2) "Dispense" and "Dispenser." These terms cover the lawful transfer of a controlled dangerous substance to the ultimate user by a practitioner.

(3) "Distribute" and "Distributor." These terms are defined to cover anyone who transfers, or attempts to transfer, a controlled dangerous substance.

(4) "Manufacturer." This is defined to include anyone who produces, compounds, or processes a controlled dangerous substance, except a practitioner who simply compounds or rewraps controlled dangerous substances.

(5) "Practitioner." This is defined to include doctors, researchers, pharmacists and all other persons or institutions authorized or otherwise permitted by State or Federal authorities to handle and use controlled dangerous substances in the course of their professional practice or research.

(6) "Immediate precursor." This is a new definition and differs from "precursors" as defined in the narcotics law. The new definition applies to all precursors which are principally used in the production of a dangerous substance and are immediate chemical intermediates of such substances. However, certain common precursors which can be used for numerous other substances in addition to controlled dangerous substances will not be controlled.

Commerce Committee bill (sec. 102, p. 13).—This section establishes legal definitions for essentially the same major terms as used in the Administration bill. In addition to the terms covered in the Administration bill, this section includes definitions of “deliver” or “delivery” (which is incorporated in the term “distribute” in the Administration bill), “felony,” “Secretary,” and “special maritime and territorial jurisdiction of the United States.”

Repealing amendments

Administration bill (sec. 103, p. 12).—As part of the program to codify all related laws in one statute, this section repeals essentially all of the existing legislation regulating dealings in narcotics and dangerous drugs (except with respect to rights and duties matured, penalties incurred, and proceedings begun before the effective date of the bill). These include all or portions of the following: Harrison Narcotic Act of 1914, Opium Smoking Tax Act, Narcotic Drugs Import and Export Acts, Marihuana Tax Act of 1937, Contraband Seizure Act of 1939, Opium Poppy Control Act of 1942, Narcotic Control Act of 1956, Narcotics Manufacturing Act of 1960, Drug Abuse Control Amendments of 1965, and title 18, sections 1401–1407 and 3616 of the United States Code.

This section also repeals all of the regulatory and administrative provisions relating to narcotic drugs and marihuana from the Internal Revenue Code (secs. 4701–4776, 7237–7238, and 7491).

Commerce Committee bill (sec. 801(a), p. 98).—The Commerce Committee bill only repeals sections 201(v), 301(q), and 511 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(v), 331(q), 360(a)). It does not repeal any provisions relating to narcotic drugs and marihuana. (The bill does not cover narcotic drugs and marihuana.)

Conforming amendments

Administration bill (sec. 104, p. 14).—This section amends numerous sections of the United States Code to accommodate the proposed act, such as updating existing statutory language, insuring uniformity and conforming existing statutes.

Commerce Committee bill (sec. 801(b), p. 98).—This subsection makes several conforming amendments to the Federal Food, Drug, and Cosmetic Act. It does not make the conforming amendments to the statutes relating to narcotic drugs and marihuana. (The bill does not cover narcotic drugs and marihuana.)

STANDARDS AND SCHEDULES

Authority to control

Present law.—Under present law, the Attorney General may add a narcotic drug as defined by section 4731 of the Internal Revenue Code to the list of basic classes permitted to be manufactured. He may not add a new basic class, however, unless he has determined that the class is comprised of narcotic drugs as defined by section 4731 of the Internal Revenue Code.

Under the drug abuse law the Attorney General may include by regulation other drugs under the definition of “depressant or stimulant drug” if, after investigation, he has found them to have a potential for abuse.

Administration bill (sec. 201, p. 21).—This title authorizes the Attorney General to add, delete, or reschedule (with certain limitations) any substance as a controlled dangerous substance but requires him first to seek the advice of the Secretary of Health, Education, and Welfare and of the Scientific Advisory Committee. (For formation of the Scientific Advisory Committee, see Title VI of this bill.) However, the Attorney General may move a schedule I substance only to schedule II unless specifically authorized by Congress to make a greater change. He may subsequently, however, move the previous schedule I substance to schedule III or IV. The provision also sets forth specific elements for consideration by the Attorney General in scheduling substances which elements include (1) the drug's potential for abuse, (2) scientific knowledge regarding the substance, (3) the history and scope of abuse, (4) risk to the public health, (5) psychic and physiological dependence liability, and (6) treaty requirements. The bill further provides that certain procedures of the Administrative Procedure Act are to apply to the process.

Commerce Committee bill (sec. 201, p. 20).—This provision is substantially the same as the provision in the Administration's bill, except that (1) the recommendations of the Secretary of Health, Education and Welfare (no provision is made for a Scientific Advisory Committee) are binding on the Attorney General as to the scientific and medical matters, and if the Secretary determines that a drug or other substance should not be controlled, the Attorney General shall not control the drug or other substance; and (2) the Attorney General is not limited, as in the Administration bill, to transfer a schedule I substance only to schedule II but may by rule transfer any drug or other substance between schedules.

Schedules of controlled substances

Present law.—Present law has no comprehensive system of categorizing narcotics and other dangerous drugs. The various categories of substances are defined and controlled by separate laws. In the case of narcotics these drugs are listed in basic classes under the Narcotics Manufacturing Act of 1960.

Administration bill (sec. 202, p. 23).—Under the Administration bill, controlled dangerous substances are grouped in 4 schedules. The degree of control over these substances varies according to the schedule in which they are placed; the greatest control is applied to substances in schedule I and the least to substances in schedule IV. The bill establishes criteria for determining the schedule in which a substance should be placed. Moreover, by specific listings, the bill places substances now controlled and certain additional substances in specific schedules:

Schedule I (p. 23).—A substance is to be placed in schedule I if (1) it has a high potential for abuse, (2) it has no accepted medical use in the United States, and (3) there is a lack of accepted safety for use in treatment under medical supervision. This schedule includes both narcotic and hallucinogenic drugs. Specifically included are such drugs as heroin, marihuana, hashish, LSD, mescaline, and peyote.

Schedule II (p. 27).—A substance is to be placed in schedule II if (1) it has a high potential for abuse, (2) it has a currently accepted medical use in the United States, or a currently accepted use with

severe restrictions, and (3) abuse may lead to severe psychological or physical dependence. This schedule contains medically usable opiates, opium derivatives, and coca leaf derivatives.

Schedule III (p. 30).—A substance is to be placed in schedule III if (1) it has a potential for abuse less than the substances listed in schedules I and II, (2) it has a currently accepted medical use in the United States, and (3) abuse may lead to moderate or low physical dependence or high psychological dependence. This schedule contains drugs that affect the central nervous system, including amphetamines and barbiturates. It also contains drugs with low-strength narcotic mixtures and compounds. Specifically included are such drugs as benzedrine, methadrine ("speed"), and miltown. Two tranquilizers not controlled under present law, librium and valium, are included in schedule III. They are the only substances specifically included in a schedule that are not controlled under present law.

Schedule IV (p. 34).—A substance is to be placed in schedule IV if it has (1) a low potential for abuse relative to the substances listed in schedule III, (2) a currently accepted medical use in the United States, and (3) limited physical and psychological dependence liability relative to the substances listed in Schedule III. This schedule includes certain currently exempt narcotic preparations, such as cough medicines, the medical value of which derives from nonnarcotic as well as narcotic ingredients.

The Attorney General is authorized to exempt by regulation any preparation containing a stimulant or depressant substance listed in schedule III if the preparation contains one or more active medical ingredients not having a stimulant or depressant effect, if the combination is such as to vitiate the potential for abuse of the stimulant or depressant. The bill also provides that the Attorney General is to exempt any nonnarcotic substance under schedule III if it may be sold without a prescription under the Federal Food, Drug and Cosmetic Act.

Commerce Committee bill (sec. 202, p. 23).—Since the Commerce Committee bill does not specifically deal with narcotics, the narcotic drugs listed in schedules I, II, and IV of the Administration bill are omitted from the Commerce Committee bill.

The Commerce Committee bill contains substantially the same classifications and criteria. However, the Commerce Committee bill splits schedule III into two separate schedules—schedules III and IV—for the purpose of classifying certain drugs, principally tranquilizers, separately. Accordingly, schedule IV of the Administration bill is designated schedule V. The criteria for schedule IV, as added by the Commerce Committee bill, are: (1) a low potential for abuse relative to the substances in schedule III, (2) currently accepted medical use in treatment in the United States, and (3) use may lead to limited physical dependence or psychological dependence relative to the substances in schedule III.

The exception in the Administration bill for preparations containing stimulants or depressants which also contain other ingredients in such combinations as to vitiate the potential for abuse is included and is applied to schedule IV as well as schedule III. The exemptions in the Administration bill for nonnarcotic schedule III drugs that may be sold without a prescription is contained in sec. 201(e) of the Commerce Committee bill and is not limited to schedule III.

REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF
CONTROLLED DANGEROUS SUBSTANCES

Rules and Regulations

Present law.—Present law does not contain an identical counterpart to this section; however, it does provide for the payment of taxes. The Harrison Narcotic Act provides for the imposition of an occupational tax (varying from \$1 to \$24) on manufacturers, importers, wholesale and retail distributors, and physicians or other practitioners dealing in or handling narcotic drugs. The Marihuana Tax Act provides for the imposition of a similar occupational tax on such individuals dealing in or handling marihuana.

The Drug Abuse Control Amendments do not provide for the assessment of fees relating to the registration of manufacturers and distributors of stimulant and depressant drugs.

Administration bill (sec. 301, p. 36).—This section authorizes the Attorney General to promulgate rules and regulations and charge reasonable fees relating to the registration and control of the manufacture, distribution, dispensing, importing and exporting of controlled dangerous substances.

Commerce Committee bill (sec. 301, p. 29).—This section is substantially the same as the Administration bill, except that it does not refer to the charging of fees for the registration and control of importing and exporting of controlled dangerous substances.

Registration Requirements

Present law.—The Harrison Narcotics Act and the Marihuana Tax Act require persons dealing in narcotic drugs and marihuana to pay an occupational tax and to register annually. Under the former provisions, those required to register and pay the tax are (1) importers, manufacturers, or producers, (2) wholesale dealers, (3) retail dealers, (4) physicians, dentists, veterinary surgeons, and other practitioners, and (6) persons engaged in research, instruction, or analysis. In addition, manufacturers of basic classes of narcotic drugs are required to be licensed under the Narcotics Manufacturing Act of 1960.

Under the Drug Abuse Control Amendments, persons manufacturing or dispensing stimulant or depressant drugs must register annually. This application for registration is made to the Food and Drug Administration of the Department of Health, Education and Welfare.

Present Federal narcotics laws authorize the possession of narcotic drugs by employees of registrants, ultimate users, warehousemen, and common carriers, and exempts them from the occupational tax and registration requirements. The Marihuana Tax Act exempts employees of registrants acting in the usual course of business from the occupational tax and registration requirements. The Drug Abuse Control Amendments authorize the sale, delivery, disposal, or possession of stimulant and depressant drugs by employees of registrants acting in the usual course of business, common and contract carriers, warehousemen, and ultimate users.

Administration bill (sec. 302, p. 36).—This section requires every person who engages, or proposes to engage in the manufacturing, distributing, and dispensing of controlled dangerous substances to register annually with the Attorney General. It permits him to waive by regulation the requirement for registration of certain manufacturers, distributors, or dispensors if he finds it consistent with the public

health and safety; and it also authorizes him to inspect the establishment of any registrant or applicant for registration. This provision also exempts agents of registrants acting in the usual course of business, common and contract carriers, warehousemen, and ultimate users from the registration requirements, and authorizes the possession of controlled dangerous substances by these individuals in the ordinary course of business. In addition, a separate registration is required for each principal place of business or practice where a registered manufacturer distributes or dispenses controlled dangerous substances.

Commerce Committee bill (sec. 302, p. 29).—This section is substantially the same as the Administration bill.

Registration

Present law.—The Narcotics Manufacturing Act of 1960 authorizes the Attorney General to license manufacturers of basic classes of narcotic drugs, and in making his determination he must consider specific criteria. Under the Marihuana Tax Act, there are no statutory criteria which must be considered prior to registration, and the only criteria which must be considered under the Drug Abuse Control Amendments for registration purposes is compliance by the applicant with appropriate State and local law.

Under the Narcotics Manufacturing Act of 1960, a license authorizing the manufacture of any one basic class of narcotic drugs does not authorize the licensee to manufacture any other basic class of narcotic drug. Under the Harrison Narcotic Act and the Marihuana Tax Act, there are no provisions restricting a registrant to particular classes of narcotic drugs, nor are specific classes of narcotic drugs designated in a registration. The Drug Abuse Control Amendments do not impose any restriction in terms of the types of classes of stimulant or depressant drugs which a manufacturer or distributor may deal in.

Administration bill (sec. 303, p. 37).—This section authorizes the Attorney General to register an applicant to manufacture schedules I and II substances if he determines that such registration would be consistent with the public interest and with the international obligations of the United States. In determining the public interest, the Attorney General must consider six specific criteria, including the existence of adequately competitive conditions among bulk manufacturers and the existence of effective controls against diversion. The Attorney General is required to register an applicant to distribute schedules I and II drugs unless he makes a finding that issuance of such registration would be inconsistent with the public interest.

The Attorney General is required to register manufacturers and distributors of schedules III and IV substances unless he determines that the issuance of such registration would be inconsistent with the public interest.

In addition, this section provides that practitioners, which includes by definition, pharmacists, shall be registered to dispense substances in schedules II through IV if they are authorized to dispense under the laws of the State in which they practice. If the applicant's qualifications and protocol are approved by the Secretary of Health, Education and Welfare, the Attorney General can deny registration only upon a finding that the applicant falsified his application, has been convicted of a felony relating to control of dangerous substances,

that his State license has been revoked, or that the applicant's proposed procedures give reason to believe that the drugs being used will not be adequately safeguarded against diversion.

Commerce Committee bill (sec. 303, p. 30).—This section is substantially the same as the Administration bill.

Denial, Revocation, or Suspension of Registration

Present law.—The Narcotics Manufacturing Act of 1960 authorizes the Attorney General to revoke or suspend a narcotics manufacturing license upon a finding that the licensee has violated or failed to comply with regulations relating to narcotic drugs. The Harrison Narcotic Act, the Marihuana Tax Act, and the Drug Abuse Control Amendments do not contain specific provisions for the suspension or revocation of registrations.

Under the Narcotic Manufacturing Act of 1960, the Attorney General may restrict revocation or suspension to the basic narcotic drug class for which grounds for revocation or suspension exist, or he may extend revocation or suspension to all basic classes of narcotic drugs for which the manufacturer holds licenses.

Administration bill (sec. 304, p. 42).—This section authorizes the Attorney General to revoke a registration upon a finding that the registrant falsified his registration, has been convicted of a felony relating to controlled dangerous substances, or has had his State license revoked and is no longer authorized to manufacture, distribute or dispense controlled dangerous substances. It also authorizes him to limit suspension or revocation to those particular controlled dangerous substances with respect to which grounds for revocation or suspension exist, and to place under seal (at the time of suspension or the effective date of revocation order), all controlled dangerous substances owned or possessed by a registrant.

This section also requires the Attorney General to serve on the applicant or registrant a show-cause order as to why registration should not be denied, revoked, or suspended. (In such a case, the applicant must be afforded a hearing under the provisions of the Administrative Procedures Act.)

This section also permits the Attorney General to suspend a registration simultaneously with the institution of proceedings bearing on the denial, revocation or suspension of registration if he finds there is imminent danger to the public health or safety.

Commerce Committee bill (sec. 304, p. 35).—This section is substantially the same as the Administration bill.

Marking of Containers

Present law.—The Harrison Narcotic Act and the Marihuana Tax Act require, respectively, that all packages containing narcotic drugs and marihuana have affixed to them appropriate tax stamps. Regulations promulgated under the Drug Abuse Control Amendments require that all packages of controlled stimulant and depressant drugs bear a symbol specified in the regulations.

Administration bill (sec. 305, p. 45).—This section provides that all commercial containers of controlled dangerous substances must be identified by symbol in regulations which would be promulgated by the Attorney General.

Commerce Committee bill (sec. 305, p. 38).—This section is substantially the same as the Administration bill.

Quotas Applicable to Certain Substances

Present law.—The Narcotic Manufacturing Act of 1960 contains a number of quota provisions.

Administration bill (sec. 306, p. 45).—This section authorizes the Attorney General to determine and establish production quotas for the manufacture of substances listed in Schedules I and II.

Commerce Committee bill (sec. 306, p. 38).—This section is substantially the same as the Administration bill. The Commerce Committee bill specifically provides, however, that production quotas shall be established in terms of quantities of each specified controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

Records and Reports of Registrants

Present law.—General recordkeeping provisions for narcotic drugs are presently found in the Harrison Narcotic Act and the Narcotics Manufacturing Act of 1960. The Harrison Narcotic Act requires that upon demand, registrants must submit a statement setting forth the quantity of narcotic drugs received over a designated period, and the persons from whom the drugs were received. By regulation, persons who fill prescriptions for narcotic drugs are required to maintain them in a separate file and make them accessible for inspection for a period of not less than two years. The Drug Abuse Control Amendments require recordkeeping but inventory requirements are no longer in force.

Administration bill (sec. 307, p. 48).—This section requires that upon the effective date of the act, all registrants manufacturing, distributing, or dispensing controlled dangerous substances must make a record of all controlled drug stocks on hand. These records must be maintained for two years, and registrants must make an inventory of all dangerous substance stocks on hand every two-year period after the act's effective date. These recordkeeping and inventory requirements are not applicable to the practitioner who prescribes or administers, but not otherwise dispenses, controlled dangerous substances listed in schedules II through IV.

Commerce Committee bill (sec. 307, p. 41).—Basically, this bill as well as the Administration bill provide that beginning with the effective date of the provision, and every two years thereafter, registrants will be required to make a complete and accurate record of stocks on hand. Both bills provide exemptions for practitioners, and the Commerce Committee bill contains a number of other specific exemptions. The Administration bill also provides that by regulation the Attorney General may require the submission of reports necessary to conform to international obligations of the United States.

Order Forms.

Present law.—The Harrison Narcotic Act provides that narcotic drugs must be distributed pursuant to a written order of the purchaser. Practitioners and pharmacists are specifically exempted from the order form requirements. Similarly, order form requirements and exemptions are made for the distribution of marihuana. No

order form requirements are imposed for the distribution of stimulant and depressant drugs under the Drug Abuse Control Amendments.

Administration bill (sec. 308, p. 48).—This section provides that controlled dangerous substances listed in schedules I and II must be distributed pursuant to order forms as prescribed by the Attorney General. Practitioners administering or dispensing such drugs to patients or research subjects, and pharmacists distributing such drugs to ultimate users, are specifically exempted from the order form requirements.

Commerce Committee bill (sec. 308, p. 44).—This section contains several additional provisions dealing with recordkeeping and issuance of order forms, and prescribes the charging of reasonable fees for their issuance.

Prescriptions

Present law.—Generally, narcotic drugs may be dispensed only on oral or written prescriptions. However, practitioners may dispense narcotic drugs to bona fide patients without prescriptions or order forms. Oral prescriptions are authorized for the dispensing of certain less addictive narcotic drugs. Under the Drug Abuse Control Amendments, no prescription for any stimulant or depressant drug may be filled or refilled more than 6 months after date and no prescription may be refilled more than five times after the date, unless renewed by practitioner either in writing or orally.

Administration bill (sec. 309, p. 49).—This section provides that no substances listed in schedule II may be dispensed without written prescription from a practitioner with certain exceptions. In emergency situations, a schedule II drug may be dispensed upon the oral prescription of the practitioner. Under certain circumstances, no prescriptions for a schedule II substance may be refilled. In addition, except when dispensed by a practitioner other than a pharmacist, no controlled dangerous substances listed in schedule III, which is a prescription drug, may be dispensed without a written prescription. Such prescriptions may not be filled or refilled more than 6 months after the date and may not be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

Commerce Committee bill (sec. 309, p. 47).—This section is substantially the same as the Administration bill.

IMPORTATION AND EXPORTATION

Importation: prohibition for manufacture of heroin

Present law.—Present law prohibits the importation of marihuana and finished narcotic drugs under any circumstances. It also prohibits the importation of crude opium and coca leaves, except for medical and other legitimate use under special regulations. However, crude opium may not be imported for the purpose of manufacturing heroin.

Importation of depressant and stimulant drugs is only partially controlled under present law. The importation of such drugs may be denied only if (1) they are found to have been manufactured under unsanitary conditions, (2) their sale is forbidden or restricted in the country of origin, or (3) they are adulterated or misbranded, or have not been approved as safe and effective.

Administration bill (sec. 401, p. 51).—This section prohibits the importation of schedule I or II substances and narcotic drugs listed in schedules III or IV, except such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific or other legitimate purposes. Hallucinogenic drugs are made subject to the same controls as narcotics and marihuana. The bill adds a provision not contained in present law permitting the importation of finished narcotics and hallucinogenic drugs for medical, scientific or other legitimate needs to the extent the Attorney General finds necessary during an emergency in which domestic supplies are inadequate, or if there is insufficient competition among domestic producers. Non-narcotic controlled substances under schedule III may be imported for medical or other legitimate uses pursuant to notification requirements to be prescribed by the Attorney General by regulations. The bill places an absolute ban on the importation of crude opium for the purpose of manufacturing heroin or smoking opium.

Commerce Committee bill (sec. 401, p. 48).—The Commerce Committee bill contains similar provisions but does not cover the importation of narcotic drugs.

Importation of coca leaves

Present law.—Coca leaves may be imported for use in the United States without regard to the general narcotics import restrictions if after entry into the United States all cocaine and ecgonine and their source materials are removed and destroyed.

Administration bill (sec. 402, p. 52).—The Administration bill contains substantially the same provision.

Commerce Committee bill.—The Commerce Committee bill does not contain a similar provision.

Exportation

Present law.—Present law prohibits the exporting of narcotic drugs from the United States except as is provided under existing treaty obligations, which are specifically set forth. Specified requirements must be met by the importing country to insure that these treaty obligations are fulfilled, and an export permit must be obtained from the Attorney General. The Attorney General is authorized to permit the exporting of any narcotic drug to any country party to a listed treaty, even if the country has not complied with all of the specified requirements, if the drug is to be applied to a specific scientific purpose and the authorities of the importing country will permit it to be imported.

Administration bill (sec. 403, p. 53).—The Administration bill contains substantially the same provisions, and brings the list of treaties up to date by including the 1961 Single Convention on Narcotic Drugs.

The bill contains a new provision applying similar rules to the non-narcotic substances in schedules I and II (hallucinogenic drugs). The exportation of these drugs is forbidden unless (1) the importing country has a system for their control deemed adequate by the Attorney General, (2) the export is consigned to a properly licensed receiver, (3) evidence has been furnished to the Attorney General that the drug is to

be used for a legitimate purpose, and (4) an export permit has been obtained. (Under present law, the only control over exportation of hallucinogenic drugs is the provision establishing standards for determining adulteration or misbranding of drugs, generally.) As in the case of narcotics, the Attorney General may authorize the exportation of hallucinogenic drugs notwithstanding the failure of the importing country to maintain an adequate system of controls generally, if the drugs are to be applied to a specific scientific purpose and the importing country will permit them to be imported.

In the case of all other controlled dangerous substances not requiring an export permit, exportation is permitted only if the Attorney General is given documentary proof that importation of the substance is not contrary to the laws or regulations of the importing country. A special invoice is required.

Commerce Committee bill (sec. 402, p. 49).—The Commerce Committee bill contains substantially similar provisions except that the exportation of narcotics is made subject to the existence of controls in the importing country that are deemed adequate by the Attorney General, rather than controls provided by treaty.

Transshipment and in-transit shipment

Present law.—Present law forbids the admission into the United States of any narcotic drug for subsequent export or transshipment to another country, except with the approval of the Attorney General. Smoking opium may not be admitted for any purpose.

Administration bill (sec. 404, p. 57).—The Administration bill extends this prohibition to hallucinogenic drugs as well as narcotic drugs but provides an exception for legitimate use in the country of destination. It provides that no schedule I substance shall be admitted into the United States for transportation to another country or be transferred or transshipped within the United States except for scientific, medical or other legitimate purposes in the country of destination, and then only with the prior written approval of the Attorney General.

Schedule II or schedule III substances may be admitted or transshipped only upon advance notice to the Attorney General.

Commerce Committee bill (sec. 403, p. 51).—The Commerce Committee bill contains a substantially similar provision.

OFFENSES AND PENALTIES

(See table in appendix)

ADMINISTRATIVE PROVISIONS

Delegation of authority—rules, regulations, and procedures—bequests and gifts

Present law.—Existing law permits the Attorney General to delegate his functions to employees of the Department of Justice. The Attorney General may promulgate regulations and rules for the enforcement of the laws under his jurisdiction, as well as accept gifts, donations and bequests in the name of the Department.

Administration bill (sec. 601, p. 73).—This section specifies, for the purpose of this bill, the general administrative provisions as under existing law.

Commerce Committee bill (sec. 601, p. 71).—This section is identical to the Administration bill.

Education and research programs

Present law.—Education and research programs relating to regulation and control of dangerous substances are permitted under broad administrative provisions, but no one specific Federal law details authorizations to the Attorney General for such education and research programs.

Administration bill (sec. 602, p. 74).—This section authorizes and directs the Attorney General to carry out educational and research programs necessary for the effective enforcement of the provisions of the bill, including assessment of the effects of controlled dangerous substances and identification and characterization of such substances with potential for abuse.

He is authorized to enter into contracts with public or private organizations or individuals to obtain research on these substances, without requiring performance bonds and without regard to section 5 of title 41 of the United States Code. The Attorney General may also authorize the researchers to withhold the names and identities of persons who are the subject of such research, including for the purpose of any Federal or State civil, criminal, administrative, legislative or other proceeding. Finally, he may authorize the possession and distribution of controlled dangerous substances by persons engaged in research, who shall be exempt from State or Federal prosecution to the extent so authorized.

Commerce Committee bill (sec. 602, p. 72).—This section is substantially the same as the Administration bill, but with the more specific proviso that such educational and research programs must be "directly related to the enforcement of the laws under his jurisdiction concerning narcotic drugs, marihuana, and depressant or stimulant drugs."

The programs that may be included are also more specifically outlined to include studies or projects relating to: (1) educational and training programs on law enforcement for local, State, and Federal personnel; (2) comparing the deterrent effects of various enforcement strategies on drug use and abuse; (3) accurate assessment and detection of the presence of such drug substances in the body, including rapid field identification methods to enable agents to detect micro-quantities of such substances; (4) evaluation of the nature and sources of supply of illegal drugs; (5) methods to prevent diversion of such substances into illegal channels; and (6) law enforcement information aspects of drug abuse necessary to carry out the Attorney General's function under section 201 of the Committee's bill ("authority and criteria for classification of substances").

Cooperative arrangements

Present law.—Sections 197 and 198 of title 21, United States Code, presently provide for cooperative arrangements among local, State and Federal agencies in carrying out the national and international obligations concerning narcotics and dangerous substances. There is currently no specific law providing for programs of cooperative eradication of wild or illicit plant life.

Administration bill (sec. 603, p. 75).—The direction for the Attorney General to cooperate with local, State, and Federal agencies concerning narcotics and dangerous substances is substantially the same as existing law provisions. This includes authorization to arrange for the exchange of information between governmental officials, to cooperate in the prosecution of cases, to conduct law enforcement training programs, to maintain information and statistics on addicts and violators, and to make such information available for Federal, State, and local law enforcement.

In addition, this section authorizes cooperation in conducting eradication programs against wild or illicit plant life from which controlled dangerous substances may be extracted. Further, at the request of the Attorney General, any Federal agency or instrumentality must furnish assistance or advice for the purpose of these provisions; provided, that no identification or information may be required that would violate the confidence of a patient or research subject.

Commerce Committee bill (sec. 603, p. 74).—This section is essentially the same as the Administration bill.

Advisory committees

Present law.—Existing Federal law provides for the use of advisory committees in making certain determinations under the Narcotics Manufacturing Act of 1960 and the Drug Abuse Control Amendments.

Administration bill (sec. 604, p. 77).—The Attorney General is directed to appoint a Scientific Advisory Committee for advice with respect to dangerous substances which may be subject to control under the Act, as well as advice concerning the classification of such substances. The Advisory Committee is to be selected, after consultation with the Secretary of Health, Education, and Welfare, from a list presented by the National Academy of Sciences. The section also sets forth the period of service and payment.

The Attorney General may establish a time limit for the Committee's submission of a written report required by section 201 of the bill, and he may also appoint other committees for advice with respect to prevention and control of the abuse of dangerous substances.

Commerce Committee bill (sec. 604, p. 75).—This section only provides that the Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. It also establishes the payment to committee members.

Administrative hearings

Present law.—Existing law provides that administrative hearings are to be conducted in accordance with the Administrative Procedures Act (subchapter II of chapter 5, title 5 of the United States Code).

Administration bill (sec. 605, p. 79).—The Attorney General is authorized to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States, and generally requires that notice shall be given and hearings conducted under the Administrative Procedures Act. An exception is provided in emergency situations described in section 401(a)(2)(A) of the bill for the opportunity for a hearing prior to the issuance of a registration under section 303(a) of the bill and prior to the issuance of a regulation under section 401(a) of the bill.

Commerce Committee bill (sec. 605, p. 75).—This section is similar to the Administration bill, with the exception that it does not contain the exception referred to above in the Administration bill.

Subpoenas

Present law.—Under sections 198a, 198b, and 198c, of title 21 of the United States Code, the Attorney General is empowered to subpoena witnesses and records. A refusal of such subpoena is subject to court action.

Administration bill (sec. 606, p. 80).—In any matter relating to the control of dangerous substances, the Attorney General is empowered to subpoena witnesses, compel their attendance and testimony, and require the production of any records which he finds relevant or material to the investigation. Witnesses summoned under this section are to be paid the same fees and mileage that are paid witnesses in the courts of the United States. A refusal to obey a subpoena under this section would authorize court action, and may be punished as a contempt of court.

Commerce Committee bill (sec. 606, p. 76).—This section is identical to the Administration bill.

Judicial review

Present law.—Under existing law, judicial review is available for final determinations of the Attorney General.

Administration bill (sec. 607, p. 81).—This section is substantially the same as existing law in that any person aggrieved by a final decision of the Attorney General under the provisions of the bill may obtain judicial review in the U.S. Court of Appeals for the District of Columbia or the circuit in which the person's principal place of business is located (upon petition filed with the court and delivered to the Attorney General within 30 days after notice of the decision). Findings of fact by the Attorney General, if supported by substantial evidence, are to be conclusive.

Commerce Committee bill (sec. 607, p. 78).—This section is identical to the Administration bill.

ENFORCEMENT PROVISIONS

Powers of Enforcement Personnel

Present law.—The Harrison Narcotics Act authorizes special agents of the Bureau of Narcotics and Dangerous Drugs to carry firearms, execute and serve warrants and subpoenas, and to make arrests without a warrant for offenses committed against the United States relating to narcotic drugs and marihuana. These agents are given substantially the same authority under the Drug Abuse Control Amendments.

Administration bill (sec. 701, p. 82).—This section permits those officers and employees of the Bureau of Narcotics and Dangerous Drugs designated by the Attorney General to carry firearms, execute and serve warrants and subpoenas, make arrests without warrants for offenses committed against the United State in their presence, and to make seizure of property. It also provides that no provision contained in the act shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

Commerce Committee bill (sec. 608, p. 78).—This section is the same as the Administration bill.

Search Warrants

Present law.—Under present law, search warrants relating to offenses involving narcotic drugs may be served at any time of the day or night so long as there is probable cause to believe that grounds exist for the warrant. On the other hand, search warrants relating to offenses involving stimulant or depressant drugs must presently be served in the daytime unless the positivity requirement of rule 41(c) of the Federal Rules of Criminal Procedure is met.

Existing Federal law does not provide for the authorization of unannounced entries in the execution of search warrants. Under the common law, however, unannounced entries are permitted in those instances where the officer executing a search warrant has probable cause to believe that if he knocked and announced his authority and purpose, either the evidence sought would be destroyed or his life would be placed in danger.

Administration bill (sec. 702, p. 83).—This section provides that search warrants relating to offenses involving controlled dangerous substances may be served at any time of the day or night so long as there is probable cause to believe that grounds exist for the warrant and for its service at such time. It also authorizes the execution of search warrants relating to felony offenses involving controlled dangerous substances, without knocking or announcing authority and purpose, if the judge or magistrate issuing the warrant is satisfied that there is probable cause to believe that if the officers knocked and announced their authority and purpose, either the evidence sought would be quickly or easily destroyed or disposed of, or that the officers would be placed in danger of physical harm. It is also provided that the search warrant state on its face that an unannounced entry is authorized and that the officers identify themselves as soon as is practicable after gaining entry.

Commerce Committee bill (sec. 609, p. 79).—This section is substantially the same as the Administration bill.

Administrative Inspection and Warrants

Present law.—Existing Federal law does not provide for the issuance and execution of administrative inspection warrants. A number of recent Supreme Court decisions, however, have held that in the absence of consent or eminent danger to the public health and safety, the Fourth Amendment requires that warrants must be obtained for conducting administrative inspections. The Drug Abuse Control Amendments contain inspection provisions authorizing inspections of records required under the act, as well as inspections of premises in which stimulant and depressant drugs are manufactured, processed, or held for introduction into the interstate commerce.

Administration bill (sec. 703, p. 84).—This section sets forth criteria which must be met to give rise to the requisite probable cause for the issuance and execution of administrative inspection warrants, the procedures for obtaining such warrants, and the mode and manner in which such warrants are to be executed. It also specifies the premises which are defined "controlled premises" for purpose of administrative

inspections, and the types of materials which are subject to inspection. In addition, it specifies those instances where inspection warrants are not required and those materials which are specifically excluded from the scope of inspection authority.

Commerce Committee bill (sec. 610, p. 80).—This section is similar to the Administration bill; however, this bill is structured differently and contains a significant number of language differences.

Forfeitures

Present law.—The Harrison Narcotic Act subjects unstamped packages of narcotic drugs to seizure and forfeiture. Federal law also provides that any vessel, vehicle or aircraft which is used to transport, conceal, or facilitate the transportation or concealment of a narcotic drug or marihuana is subject to seizure or forfeiture. Certain exemptions, similar to those contained in section 704(a) of H.R. 17463, are made with respect to common carriers.

Under the Drug Abuse Control Amendments, stimulant and depressant drugs used in violation of the act, counterfeit drugs, equipment used to manufacture or process stimulant or depressant drugs in violation of the act, and any punch, die plate, stone, labeling, container, or any other thing used in making counterfeit drugs are all subject to libel proceeding and condemnation in U.S. district courts. There are no provisions, however, allowing for the seizure and forfeiture of conveyances used to transport, conceal, or facilitate the transportation or concealment of stimulant or depressant drugs in violation of the Drug Abuse Control Amendments.

Administration bill (sec. 704, p. 88).—This section specifies the types of property which are subject to forfeiture under the act. These include controlled dangerous substances manufactured or obtained in violation of the act, raw materials, products, equipment used in the manufacture or conveyance of controlled dangerous substances in violation of the act, conveyance used to transport or conceal controlled dangerous substances (with certain exceptions), and books, records, and other documents used in violation of the act. This section also contains a number of provisions found in existing Federal law with respect to the procedures for seizure and forfeiture and disposal of forfeited property.

Commerce Committee bill (sec. 611, p. 85).—This section is substantially the same as the Administration bill.

Injunctions

Present law.—The Drug Abuse Control Amendments contain injunction provisions substantially similar to those provided in section 705 of H.R. 17463.

Administration bill (sec. 705, p. 94).—This section provides that the district courts of the United States shall have jurisdiction in proceedings to enjoin violations of the act. It also provides that violations of injunction of restraining orders are to be tried by jury, upon demand of the accused, in accordance with the Federal Rules of Civil Procedure.

Commerce Committee bill (sec. 612, p. 91).—This section is the same as the Administration bill.

Enforcement Proceedings

Present law.—The Drug Abuse Control Amendments contain provisions substantially similar to those provided in section 706 of H.R. 17463.

Administration bill (sec. 706, p. 94).—This section permits the Director of the Bureau of Narcotics and Dangerous Drugs, prior to the institution of criminal proceedings, to require that the person against whom such proceedings is contemplated be given notice and an opportunity to present his views with regard to the proceeding contemplated.

Commerce Committee bill (sec. 613, p. 91).—This section is the same as the Administration bill.

Community and Privilege

Present law.—Existing Federal narcotic, marijuana, and dangerous drug laws do not contain provisions granting specific immunity in cases involving violations of those laws.

Administration bill (sec. 707, p. 95).—This section authorizes a U.S. attorney, with the approval of the Attorney General, to apply to a court to order a witness in a case brought under the provisions of the act to testify or produce evidence in his possession. These witnesses, however, may not be prosecuted or subjected to any penalty or forfeiture because of the testimony or production of evidence—provided that the witness has claimed his privilege against self incrimination. (This exemption does not preclude prosecution for perjury or contempt.)

Commerce Committee bill (sec. 614, p. 92).—This section is the same as the Administration bill.

Burden of Proof; Liabilities

Present law.—Presently, these matters are mainly reflected in Federal case law, and are not generally found in existing Federal narcotic, marihuana, or dangerous drug statutes.

Administration bill (sec. 708, p. 96).—This section provides that there shall be no burden on the Government to negate any exception under the act, and that the burden of showing such an exception shall be on the person claiming its benefit. It also provides that in absence of proof that a person is a registrant or holder of an order form it shall be presumed that he is not, and that the burden shall be on the person to show that he is. This provision also relieves Federal officers from liability while enforcing the act.

Commerce Committee bill (sec. 615, p. 93).—This section is substantially the same as the Administration bill.

Payments and Advances

Present laws.—The Narcotic Drugs Import and Export Act authorizes the Attorney General to make payments for investigation concerning violation of the Federal narcotic laws.

Administration bill (sec. 709, p. 97).—This section authorizes the Attorney General to make payments to persons who furnish information relating to violation of the act in such sums as he deems appropriate.

Commerce Committee bill (sec. 616, p. 94).—This section is the same as the Administration bill.

ADVISORY COMMITTEES

Establishment of Committee on Marihuana

Present law.—Although under present law, studies of various aspects of marihuana use are conducted by various Government agencies, there is no agency authorized to conduct a comprehensive study of marihuana use.

Administration bill (sec. 801, p. 98).—The Administration bill provides for the establishment of a Committee on Marihuana to make a 2-year study of all aspects of marihuana use. The Committee is to be composed of at least 5 members, including the Director of the National Institute of Mental Health and the Director of the National Institute of Law Enforcement and Criminal Justice. The other members are to be experts with diversified backgrounds and are to be appointed jointly by the Attorney General and the Secretary of Health, Education, and Welfare. The members of the Committee, and experts and consultants employed by the Committee, are to be compensated at the rate provided for a grade GS 18 (\$137 at the current rate) for each day (including travel time) during which they are actually performing duties for the Committee.

The study is to cover all aspects of marihuana use including identifying existing gaps in our knowledge of marihuana, examining medical and social aspects of marihuana use, surveying the extent and nature of marihuana use, studying the pharmacology and effects of marihuana, and the relationship of its use to crime, juvenile delinquency, and the use of other drugs, and evaluating the efficacy of existing marihuana laws.

Commerce Committee bill (sec. 701, p. 95).—The Commerce Committee bill contains provisions substantially identical to the Administration bill, except that the members of the Committee are to be compensated at the rate of \$100 per day and the consultants employed by it are to be compensated at a rate up to \$100 per day.

Establishment of Committee on Non-Governmental Drug Abuse Prevention and Control

Administration bill (sec. 802, p. 101).—The Administration bill establishes a Committee on Non-Governmental Drug Abuse Prevention and Control to study the extent to which non-governmental organizations are involved in the prevention and control of drug abuse or addiction and to advise as to how these organizations can best be fostered and encouraged. The Committee is to submit its findings to the President and Congress within 1 year after the effective date of the act.

The Committee is to be composed of 21 members, appointed by the President. No more than 7 of the members may be Members of Congress or employees of the Federal Government.

Commerce Committee bill.—There is no corresponding provision in the Commerce Committee bill.

MISCELLANEOUS PROVISIONS

Pending Proceedings

Administration bill (sec. 901, p. 103).—The enactment of the Administration bill and the repeal of provisions of present law are not to affect prosecutions for violations of law occurring before the effective date, or civil seizures, forfeitures and injunctive proceedings, and administrative proceedings under the Bureau of Narcotics and Dangerous Drugs commenced before the effective date.

Commerce Committee bill (sec. 802, p. 100).—The Commerce Committee bill contains a substantially identical provision.

Continuation of Regulations

Administration bill (sec. 902, p. 104).—Orders, rules, and regulations under present law are to continue in effect until modified, superseded, or repealed by the Attorney General.

Commerce Committee bill (sec. 805, p. 103).—The Commerce Committee bill contains a substantially identical provision.

Severability

Administration bill (sec. 903, p. 104).—The Administration bill provides that if a provision or application of a provision of the bill is held invalid, all valid severable provisions and applications shall remain in effect.

Commerce Committee bill (sec. 806, p. 103).—The Commerce Committee bill contains a substantially identical provision.

Authorization of Appropriations

Administration bill (sec. 904, p. 104).—The bill authorizes appropriations of such sums as may be necessary to carry out its provisions.

Commerce Committee bill.—There is no corresponding provision in the Commerce Committee bill.

Saving Provision

Administration bill (sec. 905, p. 105).—The Administration bill provides that except for section 309 of the bill (relating to prescriptions), the bill shall not be construed as modifying the Federal Food, Drug, and Cosmetic Act.

Commerce Committee bill (sec. 807, p. 104).—The Commerce Committee bill contains a substantially identical provision.

Republishing of Schedules

Administration bill (sec. 906, p. 105).—The schedules of controlled dangerous substances are to be updated and republished on a semi-annual basis for two years after the effective date and annually thereafter.

Commerce Committee bill.—The Commerce Committee bill contains a similar provision, beginning one year after the date of enactment.

Effective Date

Administration bill (sec. 907, p. 105).—The bill is to take effect 180 days after enactment.

Commerce Committee bill (sec. 804, p. 102).—In general, the bill is to take effect on the first day of the 7th calendar month that begins after the day immediately preceding the date of enactment. However, certain provisions are to take effect on the date of enactment subject to postponement by the Attorney General.

APPENDIX

APPENDIX I

COMPARISON OF PENALTY STRUCTURES BETWEEN H.R. 17463, H.R. 18583, AND PRESENT LAW

Violation and law applicable	Maximum fine	Sentence	Special parole term	Probation or suspended sentence permitted	Parole permitted
Unlawful distribution, possession with intent to distribute, manufacture, importation and exportation, etc.:					
1st offense:					
Present law:					
Narcotics.....	\$20, 000	5 to 20 years.....	No.....	No.....	No.
Marihuana.....	20, 000	5 to 20 years.....	No.....	No.....	Yes.
Dangerous Drugs.....	10, 000	Up to 5 years.....	No.....	Yes.....	Yes.
H.R. 17463:					
I and II narcotics.....	25, 000	Up to 12 years.....	At least 3 years.....	Yes.....	Yes.
I and II nonnarcotic and III substances.....	15, 000	Up to 5 years.....	At least 2 years.....	Yes.....	Yes.
IV substances.....	5, 000	Up to 1 year.....	No.....	Yes.....	Yes.
H.R. 18583:					
I, II, and III substances. IV substances.....	20, 000	Up to 10 years.....	At least 2 years.....	Yes.....	Yes.
(tranquillizers)	15, 000	Up to 3 years.....	No.....	Yes.....	Yes.
V substances (IV under H.R. 17463).	5, 000	Up to 1 year.....	No.....	Yes.....	Yes.
2d offense:					
Present law:					
Narcotics.....	20, 000	10 to 40 years.....	No.....	No.....	No.
Marihuana.....	20, 000	10 to 40 years.....	No.....	No.....	Yes.
Dangerous Drugs.....	20, 000	Up to 5 years.....	No.....	Yes.....	Yes.
H.R. 17463:					
I and II narcotics.....	50, 000	Up to 24 years.....	At least 6 years.....	Yes.....	Yes.
I and II nonnarcotic and III substances.....	30, 000	Up to 10 years.....	At least 4 years.....	Yes.....	Yes.
IV substances.....	10, 000	Up to 2 years.....	No.....	Yes.....	Yes.
H.R. 18583:					
I, II, and III substances. IV substances.....	40, 000	UP to 20 years.....	At least 4 years.....	Yes.....	Yes.
V substances.....	30, 000	Up to 6 years.....	No.....	Yes.....	Yes.
V substances.....	10, 000	Up to 2 years.....	No.....	Yes.....	Yes.
Simple possession:					
1st offense:					
Present law:					
Narcotics.....	20, 000	2 to 10 years.....		Yes.....	Yes.
Marihuana.....	20, 000	2 to 10 years.....		Yes.....	Yes.
Dangerous drugs.....	1, 000	Up to 1 year.....		Yes.....	Yes.
H.R. 17463:					
All substances.....	5, 000	Up to 1 year.....		Yes.....	Yes.
H.R. 18583:					
Same as H.R. 17463.					
2d offense:					
Present law:					
Narcotics.....	20, 000	5 to 20 years.....		No.....	No.
Marihuana.....	20, 000	5 to 20 years.....		No.....	Yes.
Dangerous drugs.....	1, 000	Up to 1 year.....		Yes.....	Yes.
H.R. 17463:					
All substances.....	10, 000	Up to 2 years.....		Yes.....	Yes.
H.R. 18583:					
Same as H.R. 17463.					
2d offense:					
Present law:					
Narcotics.....	20, 000	5 to 20 years.....		No.....	No.
Marihuana.....	20, 000	5 to 20 years.....		No.....	Yes.
Dangerous drugs.....	1, 000	Up to 1 year.....		Yes.....	Yes.
H.R. 17463:					
All substances.....	10, 000	Up to 2 years.....		Yes.....	Yes.
H.R. 18583:					
All substances.....	10, 000	Up to 3 years.....		Yes.....	Yes.

See footnotes at end of table, p. 24.

APPENDIX I

COMPARISON OF PENALTY STRUCTURES BETWEEN H.R. 17463, H.R. 18583, AND PRESENT LAW

Violation and law applicable	Maximum fine	Sentence	Special parole term	Probation or suspended sentence permitted	Parole permitted
Distribution of small amounts of marihuana for no profit:					
1st offense:					
Present law: No applicable provisions.					
H.R. 17463	\$5,000	1 year		Yes	Yes.
H.R. 18583: No comparable provisions.					
2d offense:					
H.R. 17463	10,000	Up to 2 years		Yes	Yes.
Continuing criminal enterprise:					
1st offense:					
Present law: No applicable provisions.					
H.R. 17463	50,000	5 years to life		No	No.
2d offense:					
H.R. 17463	100,000	10 years to life		No	No.
1st offense:					
H.R. 18583	100,000	10 years to life		No	No.
2d offense:					
H.R. 18583	200,000	20 years to life		No	No.

¹ Leary v. U.S. and other recent cases have had the effect of precluding prosecutions based on simple possession of marihuana or narcotic drugs other than heroin.

Note: Under existing Federal law, possession with intent to distribute is not a separate offense.

Violation	Comments
Conditional discharge for possession as first offense.	H.R. 17463 and H.R. 18583 both provide that a court may, upon finding any person guilty of possessing a controlled dangerous substance without intent to distribute, and who has not previously been convicted under any Federal or State law relating to narcotic drugs, marihuana, stimulant, depressant, or hallucinogenic drugs, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require. Upon violation of the terms of probation, the court may enter an adjudication of guilt and proceed as provided by the respective Acts. Upon fulfillment of the terms of probation, the court shall discharge the person and dismiss the proceedings. Such discharge shall not be deemed a conviction for the purposes of the disabilities imposed by law upon persons convicted of crimes. However, such discharge and dismissal under these sections is available only once with respect to any person. There are no provisions for first offender treatment under the present Federal law for offenses involving possession of narcotics or marihuana. There is a provision allowing for first offender treatment under the Drug Abuse Control Amendments of 1965, but it is applicable only to cases involving possession of dangerous drugs.
Endeavor and conspiracy	H.R. 17463 and H.R. 18583 both provide that any person who endeavors or conspires to commit any offense under the Act may be punished by imprisonment and/or fine, which may not exceed the maximum punishment proscribed for committing the offense. Present Federal law provides that any person who conspires to commit an offense under any of the Acts may be punished by imprisonment and/or fine not exceeding the maximum punishment proscribed for committing the offense. Attempt to commit an offense under any of the existing Acts is not punishable as an offense.
Distribution to persons under the age of eighteen.	H.R. 17463 provides that any person over 18 who knowingly and intentionally violates subsection 501(a)(1) by distributing a substance classified in Schedules I or II which is a narcotic to a person under 18 years of age who is at least three years his junior is punishable by a term of imprisonment twice that authorized by subsection 501(c)(1), by a fine of \$25,000, or both. Distribution of any controlled dangerous substance classified in Schedules I, II, III, or IV by a person over 18 to a person under 18 who is at least three years his junior is punishable by a term of imprisonment up to twice that authorized under subsection 501(c) (2) or (3), by the fine authorized under subsection 501(c) (2) or (3) or both. For any of these offenses, imposition or execution of sentences cannot be suspended and probation cannot be granted. Under existing Federal law, distribution of narcotics or marihuana by a person over 18 to a person under 18 years of age is punishable by imprisonment for not less than 10 years nor more than 40 years and, in addition, may be fined not more than \$20,000. Imposition or execution of such sentence cannot be suspended and probation cannot be granted. In addition, if the offense involves a narcotic drug, the parole provisions under Federal law shall not apply. Under the Drug Abuse Control Amendments of 1965, a person over 18 who distributed dangerous drugs to a person under 21 years of age is punishable by imprisonment for not more than 10 years, a fine not exceeding \$15,000, or both. A second offense is punishable by imprisonment for not more than 15 years, a fine not exceeding \$20,000, or both.

APPENDIX II
CROSS REFERENCE TABLE

H.R. 17463	Narcotic law	Marihuana law	Dangerous drug law
102(a)	28 U.S.C. 2901 (a) 18 U.S.C. 4251 (a)	Not available	Not available.
102(b)	Not available	do.	do.
102(c)	do	do	do.
102(d)	do	do	21 CFR 320.1(f).
102(e)	do	do	Not available.
102(f)	do	do	21 CFR 320.1(j).
102(g)	do	do	21 U.S.C. 321 (g)(2).
102(h)	do	do	21 CFR 320.1(b).
102(i)	do	do	21 U.S.C. 321 (v).
102(j)	do	do	Not available.
102(k)	do	do	Do.
102(l)	do	do	21 U.S.C. 321(g)(1).
102(m)	do	26 U.S.C. 4761(2)	Not available.
102(n)	21 U.S.C. 502(f)	Not available	do.
102(o)	26 U.S.C. 4731(a)	do	do.
102(p)	21 U.S.C. 503(h)	do	do.
102(q)	26 U.S.C. 4731(g)(1)	do	do.
102(r)	21 U.S.C. 188a(c)	do	do.
102(s)	Not available	do	do.
102(t)	26 CFR 151.11(h)	26 CFR 151.11(h)	do.
102(u)	21 U.S.C. 1881a(b)	Not available	do.
102(v)	21 U.S.C. 502(i)	do	do.
102(w)	Not available	do	do.
102(x)	do	do	do.
102(y)	do	do	do.
201	21 U.S.C. 504	do	21 U.S.C. 321 (v).
202	Not available	do	Not available.
301	26 U.S.C. 4721	26 U.S.C. 4751	Do.
302(a)	26 U.S.C. 4722 21 U.S.C. 506	26 U.S.C. 4753	21 U.S.C. 360(b).
302(b)	26 U.S.C. 4724(c)	26 U.S.C. 4772	21 U.S.C. 360a (a), (b).
302(c)	26 U.S.C. 4772(b)	26 U.S.C. 4772(b)	21 U.S.C. 360a (a)(6).
302(d)	26 U.S.C. 4722	26 U.S.C. 4751	21 U.S.C. 360.
302(e)	26 CFR 151.23	26 CFR 151.21 26 CFR 151.22	21 U.S.C. 360(h).
303(a)	21 U.S.C. 506	Not available	Not available.
303(b)	Not available	do	Do.
303(c)	21 U.S.C. 506(c)	do	Do.
303 (d), (e)	21 U.S.C. 506(c)	do	Do.
303(f)	26 U.S.C. 4722 26 U.S.C. 4721(3) 26 U.S.C. 4721(4) 26 U.S.C. 4721(5)	26 U.S.C. 4753 26 U.S.C. 4751(3) 26 U.S.C. 4751(4)	21 U.S.C. 360. 21 U.S.C. 350a(a)(5).
304(a)	21 U.S.C. 507	Not available	Not available.
304(b)	21 U.S.C. 507	do	Do.
304(c)	21 U.S.C. 506(e) 21 U.S.C. 507(b)	do	Do.
304(d)	Not available	do	Do.
304(e)	do	do	Do.
304(f)	21 U.S.C. 507	do	Do.
305	26 U.S.C. 4703	26 U.S.C. 4743	21 CFR 320.18.
306	21 U.S.C. 509	Not available	Not available.
307	26 U.S.C. 4732 21 U.S.C. 511	26 U.S.C. 4754	21 U.S.C. 360a(d).
308	26 U.S.C. 4705	26 U.S.C. 4742	Not available.
309(a)	26 U.S.C. 4705(c)(2) 26 CFR 151.411 26 CFR 151.397	Not available	Do.
309(b)	26 U.S.C. 4705(c)(2) 26 CFR 151.411 26 CFR 151.397	do	21 U.S.C. 370a(e).
401	21 U.S.C. 173	21 U.S.C. 176a	21 U.S.C. 381.
402	21 U.S.C. 173a	Not available	Not available.
403(a)	21 U.S.C. 182	do	Do.
403(b)	21 U.S.C. 182(c)	do	Do.
403(c)	Not available	do	Do.
403(d)	21 U.S.C. 182(c)	do	Do.
403(e)	Not available	do	Do.
404	21 U.S.C. 180	do	Do.
501(a)(1)	26 U.S.C. 4705(a) 26 U.S.C. 4704 21 U.S.C. 174 21 U.S.C. 505	26 U.S.C. 4742 26 U.S.C. 4744 21 U.S.C. 176a	21 U.S.C. 360a. 21 U.S.C. 331(q).
501(a)(2)	21 U.S.C. 173	21 U.S.C. 176a	Not available.
501(a)(3)	21 U.S.C. 182	Not available	Do.
501(a)(4)	49 U.S.C. 781	49 U.S.C. 781	Do.
501(a)(5)	Not available	Not available	21 U.S.C. 331.
501(b)	do	do	Not available.
501(c)(1)	26 U.S.C. 7237 21 U.S.C. 174 21 U.S.C. 515 21 U.S.C. 183	do	Do.

APPENDIX II—Continued
CROSS REFERENCE TABLE—Continued

H.R. 17463	Narcotic law	Marihuana law	Dangerous drug law
501(c)(2).....	26 U.S.C. 7237 21 U.S.C. 174 21 U.S.C. 515 21 U.S.C. 183	26 U.S.C. 7237 21 U.S.C. 176a	21 U.S.C. 333.
501(c)(3).....	Not available	Not available	Not available.
501(c)(4).....	do.	do.	Do.
501(d).....	do.	do.	Do.
501(e).....	26 U.S.C. 4704 26 U.S.C. 7237	26 U.S.C. 4744 26 U.S.C. 7237	21 U.S.C. 331(q)(3). 21 U.S.C. 333.
502(a)(1).....	26 U.S.C. 4705(c)(2)	Not available	21 U.S.C. 331(q)(7).
502(a)(2).....	21 U.S.C. 505(a)(2)	do.	21 U.S.C. 360a(a)(1)(A).
502(a)(3).....	21 U.S.C. 180	do.	Not available.
502(a)(4).....	Not available	do.	21 U.S.C. 331(k).
502(a)(5).....	do.	do.	Do.
502(a)(6).....	26 U.S.C. 4732	26 U.S.C. 4754	21 U.S.C. 331(q)(4).
502(a)(7).....	Not available	Not available	21 U.S.C. 331(q) (5), (6).
502(b)(1), (2).....	21 U.S.C. 505(a) 21 U.S.C. 505(c)(2)	do.	Not available.
502(c).....	21 U.S.C. 515 26 U.S.C. 7237 21 U.S.C. 174	21 U.S.C. 7237	21 U.S.C. 333.
503(a)(1).....	26 U.S.C. 4705(a)	26 U.S.C. 4742	Not available.
503(a)(2).....	Not available	Not available	Do.
503(a)(3).....	do.	do.	Do.
503(a)(4).....	21 U.S.C. 515 26 U.S.C. 7207	26 U.S.C. 7207	21 U.S.C. 331(q)(4).
503(a)(5).....	18 U.S.C. 1403	18 U.S.C. 1403	Not available.
503(a)(6).....	Not available	Not available	21 U.S.C. 331(i)(2).
503(b).....	21 U.S.C. 515 26 U.S.C. 7207 18 U.S.C. 1403	26 U.S.C. 7207 18 U.S.C. 1403	21 U.S.C. 333.
504.....	26 U.S.C. 7237 21 U.S.C. 174	26 U.S.C. 7237 21 U.S.C. 176(a)	18 U.S.C. 371.
505.....	Not available	Not available	Not available.
506.....	26 U.S.C. 7237 21 U.S.C. 176b	26 U.S.C. 7237	21 U.S.C. 333.
507.....	Not available	Not available	21 U.S.C. 333(b)(3)(B).
508.....	26 U.S.C. 7237(c) 21 U.S.C. 174	26 U.S.C. 7237(c) 21 U.S.C. 176a	21 U.S.C. 333.
509.....	Not available	Not available	Not available.
601.....	21 U.S.C. 514 26 U.S.C. 7805	26 U.S.C. 7805	21 U.S.C. 371(a).
602.....	Not available	Not available	Not available.
603.....	21 U.S.C. 198	do.	Do.
604.....	Not available	do.	21 U.S.C. 360a(g).
605.....	21 U.S.C. 506 21 U.S.C. 198a	21 U.S.C. 198a	21 U.S.C. 371.
606.....	21 U.S.C. 198a	21 U.S.C. 198a	Not available.
607.....	21 U.S.C. 516	Not available	21 U.S.C. 371.
701(a).....	26 U.S.C. 7607	26 U.S.C. 7607	21 U.S.C. 372(e).
701(b).....	Not available	Not available	Not available.
702(a).....	18 U.S.C. 1405	18 U.S.C. 1405	Do.
702(b).....	Not available	Not available	Do.
703(a).....	do.	do.	Do.
703(b).....	do.	do.	21 U.S.C. 360a(d)(2). 21 U.S.C. 374.
704.....	26 U.S.C. 4706 49 U.S.C. 782	26 U.S.C. 4745 49 U.S.C. 782	21 U.S.C. 334(a)(2).
705.....	Not available	Not available	21 U.S.C. 332.
706.....	do.	do.	21 U.S.C. 335.
707.....	do.	do.	Not available.
708.....	21 U.S.C. 516	do.	Do.
709.....	21 U.S.C. 199	do.	Do.
801.....	Not available	do.	Do.
802.....	do.	do.	Do.