

SEC. 511. ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) FINDINGS- The Congress finds that--

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) CRIMINAL ENFORCEMENT- Chapter 10 of title 18, United States Code, is amended--

(1) in section 175(a), by inserting `or attempts, threatens, or conspires to do the same,' after `to do so,';

(2) in section 177(a)(2), by inserting `threat,' after `attempt,'; and

(3) in section 178--

(A) in paragraph (1), by striking `or infectious substance' and inserting `infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product';

(B) in paragraph (2)--

(i) by inserting `the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule' after `means';

(ii) by striking `production--' and inserting `production, including--';

(iii) in subparagraph (A), by inserting `or biological product that may be engineered as a result of biotechnology' after `substance'; and

(iv) in subparagraph (B), by inserting `or biological product' after `isomer'; and

(C) in paragraph (4), by inserting `, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,' after `organism'.

(c) TERRORISM- Section 2332a(a) of title 18, United States Code, is amended by inserting `, including any biological agent, toxin, or vector (as those terms are defined in section 178)' after `destruction'.

(d) REGULATORY CONTROL OF BIOLOGICAL AGENTS-

(1) LIST OF BIOLOGICAL AGENTS-

(A) IN GENERAL- The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) CRITERIA- In determining whether to include an agent on the list under subparagraph (A), the Secretary shall--

(i) consider--

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS- The Secretary shall, through regulations promulgated under subsection (f), provide for--

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant to subsection (d)(1), including measures to ensure--

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(f) REGULATIONS- The Secretary shall carry out this section by issuing--

(1) proposed rules not later than 60 days after the date of enactment of this Act; and

(2) final rules not later than 120 days after the date of enactment of this Act.

(g) DEFINITIONS- For purposes of this section--

(1) the term `biological agent' has the same meaning as in section 178 of title 18, United States Code; and

(2) the term `Secretary' means the Secretary of Health and Human Services.