

CRS Report for Congress

Drug Control: Highlights of P.L. 99-570 Anti Drug Abuse Act of 1986 (Drug-related Provisions Only)

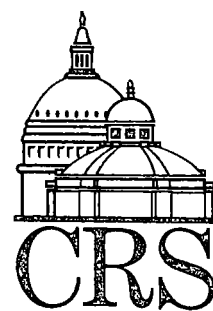
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ABSTRACT

The omnibus anti-drug bill passed in the final days of the 99th Congress is a far-ranging measure containing fifteen titles and relating to almost every aspect of Federal efforts to prevent and control the abuse of drugs. In addition to making substantial changes in regulatory and enforcement statutes, the new law provides for additional appropriations of \$1.7 billion for FY 1987, of which \$671 million are to be used for grants to States and localities. This summary focuses on the enactment's highlights,

OUTLINE OF SUMMARY

	Page
I. PENALTIES AND OTHER REGULATORY, ENFORCEMENT AND CRIMINAL JUSTICE PROVISIONS.....	1
II. INTERNATIONAL NARCOTICS CONTROL	
A. Sanctions Against Illicit Producer and Transit Countries.....	6
B. Miscellaneous.....	8
III. ADDITIONAL FUNDING FOR DRUG LAW ENFORCEMENT	
A. Increased Appropriation Authorizations for Federal Agencies and Programs.....	9
B. Grants for State and Local Drug Law Enforcement.....	10
IV. DEMAND REDUCTION	
A. Treatment and Rehabilitation.....	11
B. Drug-free Schools and Communities Act.....	12
C. Indian Alcohol and Substance Abuse Prevention and Treatment.....	13
D. Action Agency.....	13
E. National Trust for Drug-Free Youth.....	13
F. Federal Employee Substance Abuse Education and Treatment.....	13
V. GENERAL.....	15

DRUG CONTROL: HIGHLIGHTS OF P.L. 99-570,
ANTI DRUG ABUSE ACT OF 1986
(Drug-related Provisions Only)

**I. PENALTIES AND OTHER REGULATORY, ENFORCEMENT,
AND CRIMINAL JUSTICE PROVISIONS***

**Trafficking
penalty changes**

Generally

Provides for mandatory minimum prison sentences--and increases current maximums--for offenses involving larger amounts of the more dangerous drugs (establishes a three-category system of violations, with corresponding penalty ranges, based on amount of the drug involved). Raises maximum penalties for all Schedule I or II offenses, and substantially increases maximum fines for all offenses.

**Where death
or bodily injury
results from use
of the drug sold**

Prison penalty for an offense involving any Schedule I or II drug (except marihuana) and having such a result would be from 20 years to life.

**Involving
children or
schools**

Makes it a crime, subject to enhanced penalties, for an adult to act in concert with a person under 21 in violating the Controlled Substances Act. No probation or suspended sentence.
Expands existing offense of selling drugs within 1,000 feet of a school to include "manufacturing" and to cover institutions of higher learning.

Top traffickers

Amends the Continuing Criminal Enterprise statute to increase fines and provide for mandatory life imprisonment, under certain circumstances, for conviction under the statute.

**Armed career
drug offenders**

Amends the Gun Control Act to include drug trafficking among offenses that if committed while armed, after a history of three prior drug trafficking offenses, are punishable by a mandatory 15 years in prison.

* Prepared by Harry Hogan, Specialist in American National Government, and Kent Ronhovde, Legislative Attorney.

Possession
penalty changes

Provides for mandatory penalties for the unauthorized simple possession of any controlled substance--a \$1,000 fine for a first offense, 15 days in prison and \$2,500 for a second, and 90 days and \$5,000 for a third. Convicted offender is required to pay investigation and prosecution costs.

Use of Armed Forces
in drug law enforcement

Extends authority to employ the Armed Forces in assisting in civilian law enforcement to include assistance under emergency circumstances when the size and scope of the activity poses a serious threat to the interest of the United States and when the assistance would significantly enhance the enforcement of certain specified Federal statutes, including major anti-drug laws.

Customs enforcement
authority

Grants the Customs Service numerous new enforcement authorities designed to enhance anti-smuggling efforts, and increases penalties for various smuggling offenses.

Forfeiture of
trafficker assets

Authorizes forfeiture of substitute assets when a convicted drug trafficker has hidden his drug profits from prosecutors.
Provides for civil forfeiture of assets derived from drug trafficking in other countries and found in the U.S.--to be shared with foreign governments to the extent there was joint action in a particular investigation or as required by international agreement.

Money laundering

Makes it a Federal crime to knowingly "launder", in any of various specified ways (including the structuring of banking transactions to evade reporting requirements), the proceeds of drug trafficking, racketeer crimes, arms exporting and other profit-motivated offenses. Requires further banking regulations designed to reveal the presence of laundering. Provides for forfeiture of launderer's profit and the monetary instruments laundered (or property in which they have been invested) as well as of profits from drug trafficking offenses committed in other countries.

"Designer drugs"

Makes it unlawful to manufacture with the intent to distribute, to possess with such intent, or to distribute a controlled substance analogue (defined as a substance "(i) the chemical structure of which is substantially similar to that of a controlled substance in schedule I or II [under the Controlled Substances Act] or (ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system

"Designer drugs"
(cont.)

that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II" or one which is represented or intended as such.

Freedom of Information Act amendments

Exempts from the Freedom of Information Act disclosure requirements any records compiled for law enforcement purposes that would reasonably be expected to interfere with enforcement proceedings or to disclose a confidential informant or investigative information. Also exempts from disclosure any law enforcement guidelines if such disclosure would reasonably be expected to risk circumvention of the law.

Aircraft operation

Provides criminal penalties for willfully operating aircraft at night without lights in conjunction with drug trafficking, for the willful use or installation of unlawful fuel systems in aircraft, and for various other actions or omissions on the part of operators.

Air safety

Makes it a Federal violation to use a registered or fraudulently registered aircraft in conjunction with transporting controlled substances. Allows States to impose criminal penalties for the use of forged or altered aircraft registrations.

Manufacturing operations

Makes it unlawful to open or maintain (or manage or control) any place for the purpose of manufacturing, distributing or using a controlled substance.

Maritime drug offense prosecution

Amends existing law provisions covering maritime offenses involving controlled substances to extend the definition of certain elements of such offenses (changes designed to eliminate certain problems that have arisen in the prosecution of these cases).

Deportation of drug traffickers

Makes it clear that aliens convicted of controlled substance offenses by Federal, State, or foreign governments are ineligible for admission to the United States and are deportable if in the United States. Also authorizes expedited procedures for deportation hearings for aliens arrested for controlled substances offenses committed in the U.S.

Deputization of
State and local
officers

Authorizes the Attorney General to deputize State and local law enforcement officers for enforcement of controlled substance statutes.

National Forest
Service drug
control

Grants certain law enforcement authorities to designated Forest Service personnel, including authority to enforce the Controlled Substances Act within National Forests, subject to approval by the Attorney General.

Drug paraphernalia

Prohibits the sale or transport of drug paraphernalia in interstate or foreign commerce, the use of the mails to promote such sale, or (specifically) the import or export of such items.

Commercial motor
vehicle safety

Contains various provisions regarding testing, licensing and qualification of operators of commercial motor vehicles, including provisions designed to encourage State efforts to curb the use of alcohol or controlled substances by such operators and to disqualify persons who commit certain offenses--including driving a commercial vehicle under the influence of alcohol or drugs--from holding a "classified driver's license" under a new national system instituted by the bill.

Communications

Authorizes the Federal Communications Commission to revoke any license that has been used for drug-related activities and to seize the communications equipment.

Ballistic knives

Prohibits the possession, manufacture, sale, importation, and mailing of ballistic knives, and provides for a mandatory penalty enhancement for the use of such a knife in committing a crime of violence (under Federal or State law).

Drug law enforcement
study

Requires the National Drug Enforcement Policy Board to study Federal drug law enforcement efforts and to report to Congress, with recommendations for improvement.

Protection of
Federal drug
control agents

Provides for awards of up to \$100,000 to anyone giving information that leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Common carrier
operation while
under influence of
drugs or alcohol

Makes it a Federal felony, subject to up to 5 years in prison or a fine of up to \$10,000 or both, to operate or direct a common carrier while under the influence of drugs or alcohol.

Drug control in
U.S. insular areas

Provides authority for the Attorney General to grant additional drug law enforcement authorities to law enforcement officials of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

II. INTERNATIONAL NARCOTICS CONTROL*

A. Sanctions Against Illicit Producer and Transit Countries

Cut-off of U.S. assistance

Generally

Makes mandatory a 50% suspension for each current fiscal year (and a 100% suspension for subsequent years) to major illicit drug producer and transit countries (including those in which monetary instruments are laundered with government knowledge or complicity) unless (1) the President certifies to the Congress that such a country is cooperating with the U.S. and/or taking adequate remedial steps on its own, or (2) the President certifies that vital national interests require continued assistance. (Previous provision applied aid restrictions [a 100% cutoff] only if the President made a positive determination that such countries had failed to take adequate remedial action.)

Provides that Presidential certification for exemption from sanctions may be overridden within 30 days by enactment of a joint resolution disapproving the determination contained in the certification.

Egregious cases

Makes mandatory a 100% suspension (and denial of favorable U.S. votes in multilateral development banks) to certain categories of major illicit producer or transit countries unless the President certifies (1) that assistance is an overriding national interest, (2) that assistance improves prospects for anti-drug cooperation, or (3) that the government of the country is making good faith efforts to investigate and prosecute crimes against U.S. drug agents.

Partial restoration of assistance to Bolivia

Restores 50% of assistance allocated to Bolivia if President certifies that Bolivia has cooperated with the U.S. in narcotics interdiction operations in F.Y. 1987, resulting in a significant disruption of that industry.

* Prepared by Raphael Perl, Specialist in International Affairs.

Cut-off of U.S.
assistance (cont.)

Conditions for
restoration of
full assistance
to Bolivia

Conditions restoration of full assistance to Bolivia upon Presidential certification that Bolivia in 1986 has either: (1) met its eradication targets planned for 1985; or (2) entered into an agreement with the U.S. for meeting planned 1985 targets in 1987 and is making substantial progress towards meeting the 1985 targets.

Withholding of
narcotics assis-
tance to Mexico

Withholds \$1 million of international narcotics control assistance to Mexico until the President reports to the Congress that Mexico has fully investigated and brought to trial those responsible for: (1) the murder of DEA agent Enrique Camarena Salazar; and (2) the arrest and torture of DEA agent Victor Cortez.

Denial of U.S. votes
in multilateral
development banks

Requires that U.S. Executive Directors of the various multilateral development banks in which the U.S. holds membership be instructed to vote against loans or other funds for any major illicit drug producing country or major drug-transit country unless the President certifies that the country is cooperating with the U.S., or has taken adequate steps on its own, in preventing illicit drug production and the traffic of illicit drugs into the U.S.

Denial of trade
benefits

Requires the President to make an annual determination (subject to override by joint congressional resolution) as to whether drug source countries are cooperating with the U.S. in controlling drug production and illicit trafficking, prohibits favorable tariff treatment of these countries' exports to the U.S., and requires duty increases of up to 50% on such exports. Also, prohibits the allocation of a sugar quota to an uncooperative country.

Possible additional
sanctions against
Mexico

Expresses the sense of the Congress that unless substantial progress is demonstrated in resolving issues related to: (1) the murder of DEA agent Camarena; (2) the torture of agent Cortez; (3) effective use by Mexican authorities of U.S. supplied aircraft for eradication and interdiction; and (4) cross border trafficking and drug related violence, the President "should consider" taking one or more of the following measures against Mexico: (1) imposition of a mandatory travel advisory; (2) restrictions of foreign assistance; (3) denial of favorable tariff treatment to Mexican products; and (4) denial of favorable votes in multilateral development banks.

B. Miscellaneous**U.S. law enforcement activities abroad**

Eliminates the Foreign Assistance Act's restrictions on U.S. employees/officials assisting foreign police in making an arrest overseas [Sec. 481(c), the "Mansfield Amendment"]. (Retains prohibitions: (1) against presence of such officials at the interrogation of a U.S. citizen absent the consent of that citizen, and (2) against such U.S. officials directly making an arrest in a foreign country.) Permits U.S. employees to make, or participate in arrests in foreign countries to protect life, or for safety in exigent circumstances.

Funding of foreign narcotic control programs

Increases the FY 1987 authorization for the International Narcotics Control program under the Foreign Assistance Act -- from \$57.5 million to \$75.4 million-- and authorizes an additional \$45 million provided a formal budget is submitted.

Aircraft for Latin America

Earmarks \$10 million of the additional \$45 million assistance for helicopters and other aircraft for use primarily in Latin American narcotics control and interdiction.

Development of coca herbicides

Earmarks \$1 million for development of herbicides for coca eradication.

Strengthening international drug education

Authorizes an additional \$3 million for AID drug education programs and \$2 million for USIA drug education programs.

Support for international commissions and conferences

Expresses support for the 1987 U.N. International Conference on Drug Abuse and Trafficking, and provides that the President "should" direct the Secretary of State to enter into negotiations to establish a Mexico-U.S. Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control.

Increased multilateral development bank support for eradication and substitution programs

Requires the Secretary of the Treasury to instruct the U.S. Executive Directors of the multilateral development banks to propose (1) that all possible support be given to drug eradication programs, and (2) that such banks increase lending for crop substitution programs.

III. ADDITIONAL FUNDING FOR DRUG LAW ENFORCEMENT****A. Increased Appropriation Authorizations for Federal Agencies and Programs (for FY 1987)***

Department of Defense	Total of \$337.5 million for enhanced intelligence collection activities and for drug interdiction aircraft and aerostat radar to be used by the Customs Service and the Coast Guard. Includes \$45 million for purchase of radar systems for Coast Guard surveillance aircraft and \$15 million for the Coast Guard Tactical Law Enforcement Team.
Coast Guard	\$89 million for acquisition, construction, and improvement and \$39 million for operating expenses.
Customs Service	\$81 million for salaries and expenses and \$94 million for the Air Interdiction Program.
C-3I Centers	\$25 million for establishment and operation of command, control, communications, and intelligence (C-3I) centers, under the direction of the Commissioner of Customs, the Commandant of the Coast Guard, the Attorney General, and the National Narcotics Border Interdiction System (NNBIS).
U.S.-Bahamas Interdiction Task Force	\$10 million for aircraft and communications in aid of a joint U.S.-Bahamas task force established by the act and \$5 million (in the Coast Guard budget) for the design engineering and other activities for construction of a drug interdiction docking facility in the Bahamas.
Drug Enforcement Administration	\$60 million.
Federal Prison System	\$124.5 million--\$96.5 million for construction and \$28 million for operation.
Office of Justice Assistance	\$5 million for a pilot prison capacity program. (A related provision requires the Defense Department to conduct a study on the use, as prisons, of existing facilities under the jurisdiction of the Department.)

* Authorizations are in addition to those amounts agreed to in the conference agreement reached on Title I of H.J. Res. 738 (99th Congress) (P.L. 99-500). For counterpart appropriations, see Title II of P.L. 99-500.

** Prepared by Harry Hogan, Specialist in American National Government.

Other correctional matters	\$5 million for support of Federal prisoners in non-Federal institutions.
Judiciary	
Defender services	\$18 million.
Jurors and commissioners	\$7.5 million for fees and expenses.
F.B.I.	\$2 million to procure secure voice radios.
Secret Service	\$5 million to procure secure voice radios.
U.S. Attorneys	\$31 million.
U.S. Marshals	\$17 million.

B. Grants for State and Local Drug Law Enforcement

Bureau of Justice Assistance	For a new program of matching formula grants to the States (75/25) for State and local enforcement of drug control laws-- --\$230 million for FY 1987, --\$230 million for FY 1988, and --\$230 million for FY 1989.
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20% of the total amount appropriated in any fiscal year is to be set aside for discretionary grants to be awarded by the Bureau. Of the remaining 80%, each qualifying State will receive a minimum grant of \$500,000; the balance will be distributed based on the ratio of the population which a State bears to the ratio of the population of all the participating States.

IV. DEMAND REDUCTION*A. Treatment and Rehabilitation

<u>Authorization of appropriation</u>	Authorizes appropriation of \$241 million for FY 1987. Of the amount appropriated:
Block grant allotment	6 percent shall be added to and included with the amount available for allotment to States under the Alcohol, Drug Abuse, and Mental Health Block Grant.
Special allotments for alcohol and drug abuse treatment and rehabilitation programs	70.5 percent shall be available for allotment to States as follows: 45 percent on the basis of population with no State receiving less than \$50,000, and 55 percent on the basis of the need of each State for programs and activities for the treatment of alcohol and drug abuse, as determined by the Secretary of Health and Human Services (HHS).
Veterans' Administration	4.5 percent shall be available for transfer to the Veterans' Administration for outpatient treatment, rehabilitation, and counseling of veterans for alcohol or drug abuse dependence or disability.
Treatment evaluation	1 percent may be used to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment.
Office for Substance Abuse Prevention and model projects for high risk youth	18 percent shall be available for the establishment in the Alcohol, Drug Abuse, and Mental Health Administration of an Office for Substance Abuse Prevention and for project grants to demonstrate effective models for the prevention and treatment (including rehabilitation) of drug abuse and alcohol abuse among high risk youth. Of the amount available for these two activities, \$20 million shall be available for grants for model projects for high risk youth.
<u>Alcohol and drug abuse information clearinghouse</u>	The Secretary of HHS, through the Office of Substance Abuse Prevention, shall establish a clearinghouse for alcohol and drug abuse information.

* Prepared by Edward Klebe, Analyst in Social Legislation.

B. Drug-Free Schools and Communities Act

<u>Authorization of appropriation; how allotted</u>	Authorizes \$200 million for FY 1987 and \$250 million a year for fiscal years 1988 through 1990, to be made available by the Secretary of Education as follows:
Territories and possessions	From the amount appropriated, one percent shall be reserved for allotment to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.
Indian youth	1 percent for programs for Indian youth.
Hawaiian natives	0.2 percent for programs for Hawaiian Natives.
Institutions of higher education	8 percent for programs with institutions of higher education.
Federal activities	3.5 percent to be used by the Secretary of Education to carry out Federal education and prevention activities on drug abuse.
Regional centers	4.5 percent for 5 regional centers to train school teams, assist State educational agencies, assist local educational agencies and institutions of higher education, and evaluate and disseminate information on alcohol and drug abuse education programs and strategies.
Grants to States	The remainder shall be allotted to the States on the basis of school-age population, except that no State shall receive less than an amount equal to 0.5 percent of such remainder.
<u>Use of allotments by States</u>	30 percent of a State's allotment shall be used by the Governor for State programs. 70 percent shall be used by the State educational agency to carry out its responsibilities and for grants to local and intermediate educational agencies and consortia.
<u>State programs</u>	Not more than 50 percent of funds available to the Governor shall be used for grants to, and contracts with, local governments and other public or nonprofit private entities for the development and implementation of drug abuse prevention and education programs and activities. Not less than 50 percent shall be used by the Governor for innovative community-based programs of coordinated services for high-risk youth.

State educational
agencies

A State educational agency shall use not less than 90 percent of the amount available to it for grants to local and intermediate educational agencies and consortia.

The State agency shall use not more than 10 percent of its allotment for such activities as training and technical assistance, development and dissemination of drug abuse materials, demonstration projects, special financial assistance, and administrative costs.

C. Indian Alcohol and Substance Abuse Prevention and Treatment

Provides for various programs and increased efforts for the prevention, treatment, and control of alcohol and drug abuse among American Indians, specifically authorizing approximately \$48 million for FY 1987.

D. Action Agency

Authorizes the ACTION agency to mobilize and initiate private sector efforts to increase volunteerism in efforts to prevent drug abuse.

E. National Trust for Drug-Free Youth

In order to encourage private gifts to assist in carrying out national programs of drug abuse research, education, and prevention, establishes a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug-Free Youth.

F. Federal Employee Substance Abuse Education and Treatment

Office of
Personnel
Management

The Office of Personnel Management (OPM) shall be responsible for developing appropriate prevention, treatment, and rehabilitation programs and services for drug abuse, alcohol abuse, and alcoholism among Federal employees and, to the extent feasible, their families.

Reports to
Congress

OPM shall, within 6 months after the date of enactment, report to Congress on its drug abuse and alcohol abuse programs.

Educational
programs for
federal em-
ployees

The Director of OPM shall establish a Government-wide education program on alcohol abuse and drug abuse programs.

F. Federal Employee Substance Abuse Education and Treatment (cont.)

Employee assistance programs

The head of each executive agency shall establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for its employees.

Substance abuse coverage study

The Secretary of HHS shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study on the extent and adequacy of drug abuse treatment coverage by private insurance, public programs, and other sources of payment.

V. General*

Organization of
federal anti-drug
efforts

Requires the President to submit to Congress, within 6 months, recommendations for legislation to reorganize the Executive branch "to more effectively combat drug traffic and drug abuse."

White House
conference

Requires the President to convene a "White House Conference for a Drug Free America", bringing together individuals concerned with all aspects of the drug problem and efforts to control it. Conference to prepare a report with findings and recommendations as well as proposals for any legislative action necessary to implement such recommendations.

* Prepared by Harry Hogan, Specialist in American National Government.