



U.S. Sentencing Commission
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NEWS RELEASE

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U.S. SENTENCING COMMISSION ADOPTS GUIDELINE AMENDMENTS ENHANCING SENTENCES FOR THEFT OF MEDICAL PRODUCTS AND TRADE SECRETS
Also Amends Penalties for Trafficking in Counterfeit Drugs and Military Parts, and Other Offenses

WASHINGTON, D.C. — The United States Sentencing Commission today responded to concerns prioritized by Congress in recent legislation, voting to promulgate amendments to the federal sentencing guidelines to add new sentencing enhancements for theft of pre-retail medical products and for trafficking in counterfeit drugs, both of which can result in grave threats to public health.

The Commission also voted for new sentencing amendments to ensure proper accountability for those who traffic in counterfeit military parts and those who steal trade secrets, important threats that Congress has emphasized in recent legislation.

In proposing and promulgating these amendments, the Commission engaged the criminal justice community, including the Sentencing Resource Council and the Department of Justice, by publishing the proposed amendments, seeking public comment, and receiving testimony at a public hearing in March.

The Commission acted to add a sentencing enhancement in cases of theft of pre-retail medical products, which can endanger the public when consumers receive faulty or harmful versions of products they need for their health. The Commission acted in response to directives contained in the SAFE DOSES Act, which created a new offense for stealing medical products that have not yet been made available for retail purchase by a consumer.

“It is vitally important to protect the public and to ensure that offenders who steal and re-sell medical products like cancer treatment drugs, insulin, life-saving vaccines, or baby formula are adequately punished,” Judge Patti B. Saris, Chair of the Commission, said. “The intent of Congress to protect the most vulnerable members of our society is reflected in the Commission’s response to the SAFE DOSES Act.”

Consistent with the Act, the amendment also provides for an additional penalty enhancement when employees in the supply chain, who are entrusted with these medical products, instead steal them for re-sale.

The Commission also acted today to add an enhancement for trafficking in counterfeit drugs and new guideline penalties ensuring accountability for adulterating drugs, both of which similarly pose a significant risk to the public and were addressed last year by Congress. The amendments approved by the Commission also included a new enhancement for trafficking in counterfeit military goods and services, an offense Congress prioritized in the National Defense Authorization Act for Fiscal Year 2012.

“Today’s guideline amendments respond to Congress’s concern that there be appropriate punishments for trafficking in counterfeit drugs, which can endanger public health and safety, and counterfeit military equipment, which can undermine the military and place servicemen and women in harm’s way,” Saris said.

The Commission voted to add new sentencing enhancements for international theft of trade secrets and economic espionage, which Congress recognized as a growing problem and asked the Commission to address in the recent legislation. The Commission’s proposed amendment enhances penalties for individuals who steal proprietary information knowing it will be transmitted outside of the country and includes a larger enhancement for people who intend the theft to benefit a foreign government.

“Congress has expressed its concern, and input from the Administration, Executive branch agencies, trade representatives, and victims of these crimes makes clear that there is a growing need to combat trade secret theft and economic espionage,” Saris said. “Today’s amendments will help ensure accountability and deter this serious crime.”

The Commission also addressed circuit conflicts governing the calculation of tax loss in tax fraud cases, the circumstances under which defendants may receive full sentence reductions for acceptance of responsibility, and the availability of concurrent sentences with expected state terms of imprisonment. The Commission also voted to amend the guidelines to appropriately account for new criminal offenses addressing aiming a laser pointer at an aircraft, violating a protective order restraining harassment of a victim or witness, trespassing or other misconduct at restricted buildings or grounds including the White House, and aviation smuggling.

The Commission must submit its 2012–2013 amendment package to Congress by May 1, 2013. Congress has 180 days to review the amendments submitted by the Commission. The amendments have a designated effective date of November 1, 2013, unless Congress acts to modify or disapprove them. More information on the amendments promulgated today may be found on the Commission’s website at www.ussc.gov.

The U.S. Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines structure the courts’ sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.

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