

US CODE

TITLE 18 > PART I > CHAPTER 10

CHAPTER 10 - BIOLOGICAL WEAPONS

Sec. 175. - Prohibitions with respect to biological weapons

(a) In General. -

Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) Additional Offense. -

Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms "biological agent" and "toxin" do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(c) Definition. -

For purposes of this section, the term "for use as a weapon" includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective ^[1] bona fide research, or other peaceful purposes.

Sec. 175a. - Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10

Sec. 175b. - Possession by restricted persons

(a)

No restricted person described in subsection (b) shall ship or transport^[2] interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations. "in".

(b)

In this section:

(1)

The term "select agent" does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(2)

The term "restricted person" means an individual who -

(A)

is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(B)

has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(C)

is a fugitive from justice;

(D)

is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(E)

is an alien illegally or unlawfully in the United States;

(F)

has been adjudicated as a mental defective or has been committed to any mental institution;

(G)

is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism; or

(H)

has been discharged from the Armed Services of the United States under dishonorable conditions.

(3)

The term "alien" has the same meaning as in section 1010(a)(3)^[3] of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)). "101(a)(3)".

(4)

The term "lawfully admitted for permanent residence" has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

(c)

Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity

Sec. 176. - Seizure, forfeiture, and destruction

(a) In General. -

(1)

Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search

warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that -

(A)

exists by reason of conduct prohibited under section 175 of this title; or

(B)

is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2)

In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) Procedure. -

Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) Affirmative Defense. -

It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that -

(1)

such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2)

such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose

Sec. 177. - Injunctions

(a) In General. -

The United States may obtain in a civil action an injunction against -

(1)

the conduct prohibited under section 175 of this title;

(2)

the preparation, solicitation, attempt, threat, or conspiracy to engage in conduct prohibited under section 175 of this title; or

(3)

the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) Affirmative Defense. -

It is an affirmative defense against an injunction under subsection (a)(3) of this section that -

(1)

the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

(2)

such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose

Sec. 178. - Definitions

As used in this chapter -

(1)

the term "biological agent" means any micro-organism, virus, 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, capable of causing -

(A)

death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B)

deterioration of food, water, equipment, supplies, or material of any kind; or

(C)

deleterious alteration of the environment;

(2)

the term "toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including -

(A)

any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(B)

any poisonous isomer or biological product, homolog, or derivative of such a substance;

(3)

the term "delivery system" means -

(A)

any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(B)

any vector;

(4)

the term "vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a

result of biotechnology, capable of carrying a biological agent or toxin to a host; and

(5)

the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))

[1] So in original. Probably should be followed by a comma.

[2] So in original. Probably should be followed by

[3] So in original. Probably should be section