

Suspend the Rules and Pass the Bill, H.R. 3668, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

112TH CONGRESS
1ST SESSION

H. R. 3668

To prevent trafficking in counterfeit drugs.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2011

Mr. MEEHAN (for himself and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prevent trafficking in counterfeit drugs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Counterfeit Drug Pen-
5 alty Enhancement Act of 2012”.

6 **SEC. 2. COUNTERFEIT DRUG PENALTY ENHANCEMENT.**

7 (a) OFFENSE.—Section 2320(a) of title 18, United
8 States Code, is amended—

1 (1) by striking “or” at the end of paragraph
2 (2);

3 (2) by inserting “or” at the end of paragraph
4 (3);

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) traffics in a counterfeit drug,”; and

8 (4) by striking “through (3)” and inserting
9 “through (4)”.

10 (b) PENALTIES.—Section 2320(b)(3) of title 18,
11 United States Code, is amended—

12 (1) in the heading, by inserting “AND COUN-
13 TERFEIT DRUGS” after “SERVICES”; and

14 (2) by inserting “or counterfeit drug” after
15 “service”.

16 (c) DEFINITION.—Section 2320(f) of title 18, United
17 States Code, is amended—

18 (1) by striking “and” at the end of paragraph
19 (4);

20 (2) by striking the period at the end of para-
21 graph (5) and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(6) the term ‘counterfeit drug’ means a drug,
24 as defined by section 201 of the Federal Food,

1 Drug, and Cosmetic Act, that uses a counterfeit
2 mark on or in connection with the drug.”.

3 (d) PRIORITY GIVEN TO CERTAIN INVESTIGATIONS
4 AND PROSECUTIONS.—The Attorney General shall give in-
5 creased priority to efforts to investigate and prosecute of-
6 fenses under section 2320 of title 18, United States Code,
7 that involve counterfeit drugs.

8 **SEC. 3. SENTENCING COMMISSION DIRECTIVE.**

9 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
10 suant to its authority under section 994(p) of title 28,
11 United States Code, and in accordance with this section,
12 the United States Sentencing Commission shall review and
13 amend, if appropriate, its guidelines and its policy state-
14 ments applicable to persons convicted of an offense de-
15 scribed in section 2320(a)(4) of title 18, United States
16 Code, as amended by section 2, in order to reflect the in-
17 tent of Congress that such penalties be increased in com-
18 parison to those currently provided by the guidelines and
19 policy statements.

20 (b) REQUIREMENTS.—In carrying out this section,
21 the Commission shall—

22 (1) ensure that the sentencing guidelines and
23 policy statements reflect the intent of Congress that
24 the guidelines and policy statements reflect the seri-
25 ous nature of the offenses described in subsection

1 (a) and the need for an effective deterrent and ap-
2 propriate punishment to prevent such offenses;

3 (2) consider the extent to which the guidelines
4 may or may not appropriately account for the poten-
5 tial and actual harm to the public resulting from the
6 offense;

7 (3) assure reasonable consistency with other
8 relevant directives and with other sentencing guide-
9 lines;

10 (4) account for any additional aggravating or
11 mitigating circumstances that might justify excep-
12 tions to the generally applicable sentencing ranges;

13 (5) make any necessary conforming changes to
14 the sentencing guidelines; and

15 (6) assure that the guidelines adequately meet
16 the purposes of sentencing as set forth in section
17 3553(a)(2) of title 18, United States Code.