

and by inserting in lieu thereof the following new notes:

"5. Under 18 U.S.C. § 3565(b), upon a finding that a defendant violated a condition of probation by being in possession of a controlled substance or firearm, or by refusing to comply with drug testing, the court is required to 'revoke the sentence of probation and resent the defendant under subchapter A [of title 18, Chapter 227] to a sentence that includes a term of imprisonment.' Under 18 U.S.C. § 3583(g), upon a finding that a defendant violated a condition of supervised release by being in possession of a controlled substance, the court is required to 'revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under 18 U.S.C. § 3583(e)(3).'"

6. Under 18 U.S.C. § 3563(a), '[t]he court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception from the rule of section 3565(b) when considering any action against a defendant who fails a drug test administered in accordance with 18 U.S.C. § 3563(a)(4).'"

Appendix A (Statutory Index)

32. *Synopsis of Proposed Amendment:* This proposed amendment makes Appendix A more comprehensive by adding new offenses enacted by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322). The amendment addresses provisions found in sections 40221, 60005, 60009, 60012, 60013, 60015, 60019, 60021, 60023, 90106, 110103, 110503, 110517, 120003, 160001, 170201, 180201, 320108, 320601, 320602, 320603, 320902, of the Act. In addition, the amendment adds new offenses enacted by section 11 of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (Public Law 103-190), section 202 of the Food Stamp Program Improvements Act of 1994 (Public Law 103-225), sections 312 and 313 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296), and sections 3, 4, and 5 of the Domestic Chemical Diversion Act of 1993 (Public Law 103-200). Furthermore, the amendment conforms Appendix A to revisions in existing statutes made by the above Acts. Finally, the amendment revises the titles of several offense guidelines to better reflect their scope.

Proposed Amendment: Appendix A (Statutory Index) is amended by inserting the following at the appropriate place by title and section:

"7 U.S.C. § 2018(c) § 2N2.1",
 "7 U.S.C. § 6810 § 2N2.1",
 "18 U.S.C. § 37 2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A2.1, 2A2.2, 2A2.3, 2A3.1, 2A3.4, 2A4.1, 2A5.1, 2A5.2, 2B1.3, 2B3.1, 2K1.4",
 "18 U.S.C. § 113(a)(1) 2A2.1",
 "18 U.S.C. § 113(a)(2) 2A2.2",
 "18 U.S.C. § 113(a)(3) 2A2.2",
 "18 U.S.C. § 113(a)(5) 2A2.3",
 (Class A misdemeanor provisions only)
 "18 U.S.C. § 113(a)(6) 2A2.2",
 "18 U.S.C. § 113(a)(7) 2A2.3",
 "18 U.S.C. § 333 2F1.1",
 "18 U.S.C. § 470 2B5.1, 2F1.1",
 "18 U.S.C. § 668 2B1.1",
 "18 U.S.C. § 880 2B1.1",
 "18 U.S.C. § 922(w) 2K2.1",
 "18 U.S.C. § 924(i) 2A1.1, 2A1.2",
 "18 U.S.C. § 924(j) 2K2.1",
 "18 U.S.C. § 924(m) 2K2.1",
 "18 U.S.C. § 1033 2B1.1, 2F1.1, 2J1.2",
 "18 U.S.C. § 1118 2A1.1, 2A1.2",
 "18 U.S.C. § 1119 2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A2.1",
 "18 U.S.C. § 1120 2A1.1, 2A1.2, 2A1.3, 2A1.4",
 "18 U.S.C. § 1121 2A1.1, 2A1.2",
 "18 U.S.C. § 1716D 2Q2.1",
 "18 U.S.C. § 2114(b) 2B1.1",
 "18 U.S.C. § 2332a 2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A1.5, 2A2.1, 2A2.2, 2B1.3, 2K1.4",
 "18 U.S.C. § 2258(a),(b) 2G2.1, 2G2.2",
 "18 U.S.C. § 2261 2A1.1, 2A1.2, 2A2.1, 2A2.2, 2A2.3, 2A3.1, 2A3.4, 2A4.1, 2B3.1, 2B3.2, 2K1.4",
 "18 U.S.C. § 2262 2A1.1, 2A1.2, 2A2.1, 2A2.2, 2A2.3, 2A3.1, 2A3.4, 2A4.1, 2B3.1, 2B3.2, 2K1.4",
 "18 U.S.C. § 2280 2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A2.1, 2A2.2, 2A2.3, 2A4.1, 2B1.3 2B3.1, 2B3.2, 2K1.4",
 "18 U.S.C. § 2281 2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A2.1, 2A2.2, 2A2.3, 2A4.1, 2B1.3, 2B3.1, 2B3.2, 2K1.4",
 "18 U.S.C. § 2423(b) 2A3.1, 2A3.2, 2A3.3 [2G1.2],
 "21 U.S.C. § 843(a)(9) 2D3.2",
 "21 U.S.C. § 843(c) § 2D3.1",
 "21 U.S.C. § 849 § 2D1.2",
 "21 U.S.C. § 960(d)(3), (4) 2D1.11",
 "21 U.S.C. § 960(d)(5) 2D1.13",
 "21 U.S.C. § 960(d)(6) 2D3.2",
 "42 U.S.C. § 1307(b) 2F1.1".

In the line referenced to 18 U.S.C. § 113(a) by inserting "(for offenses committed prior to September 13, 1994)" immediately following "2A2.1";

In the line referenced to 18 U.S.C. § 113(b) by inserting "(for offenses committed prior to September 13, 1994)" immediately following "2A2.2";

In the line referenced to 18 U.S.C. § 113(c) by inserting "(for offenses committed prior to September 13, 1994)" immediately following "2A2.2";

In the line referenced to 18 U.S.C. § 113(f) by inserting "(for offenses committed prior to September 13, 1994)" immediately following "2A2.2";

In the line referenced to 18 U.S.C. § 1153 by inserting "2A2.3," immediately before "2A3.1";

In the line referenced to 18 U.S.C. § 2114 by deleting "2114" and inserting in lieu thereof "2114(a)";

And in the line referenced to 18 U.S.C. § 2423 by deleting "2423" and by inserting in lieu thereof "2423(a)".

Section 2D3.1 is amended in the title by inserting at the end "; Unlawful Advertising Relating to Schedule I Controlled Substances".

Section 2D3.2 is amended by inserting "or Listed Chemicals" immediately after "Controlled Substances".

Section 2Q2.1 is amended by deleting the title and inserting in lieu thereof "Offenses Involving Fish, Wildlife, and Plants".

II. Amendments Relating to Drug Offense Guidelines and Role in the Offense

This Part contains two approaches to the revision of the guidelines for controlled substance offenses.

The premise of Approach 1 (proposed amendments 33-42) is that the type and quantity of the controlled substance involved in the offense, as adjusted by the defendant's role in the offense, is an important and appropriate measure of the seriousness of the offense, but that the Commission assigned too much weight to drug quantity in constructing its initial guidelines. Therefore, the proposed amendments in Approach 1 would compress the Drug Quantity Table; limit its impact on lower-level defendants; somewhat increase the weight given to weapons, serious bodily injury, and leadership role; and address anomalies in the offense levels assigned to "crack" offenses and marijuana-plant offenses compared to other drug offenses. In addition, Approach 1 contains proposed amendments, addressing narrower issues, that would improve and make fairer the operation of these guidelines. The proposed amendments are set forth separately because they address different issues and, for the most part, operate independently.

The premise of Approach 2 is that the use of drug quantity to measure the seriousness of drug trafficking offenses should be abandoned or severely limited. Amendment 43 displays this approach.