

Comparison of Senate Crack Cocaine Bills 2007

Hatch (S. 1685) Kennedy, Feinstein, Specter	Biden (S. 1711) Kerry, Clinton, Feingold, Levin	Sessions (S. 1383) Pryor, Cornyn, Salazar
<p>Raises quantities that trigger mandatory minimums for crack cocaine offenses involving manufacture, distribution, or possession (21 U.S.C. § 841); or importation or exportation (21 U.S.C. § 960):</p> <ul style="list-style-type: none"> • 10 years: 250g from 50g • 5 years: 25g from 5g 	<p>Raises quantities that trigger mandatory minimums for crack cocaine offenses involving manufacture, distribution, or possession (21 U.S.C. § 841); or importation or exportation (21 U.S.C. § 960); equalizes crack and powder penalties</p> <ul style="list-style-type: none"> • 10 years: 5kg from 50g • 5 years: 500g from 5g 	<p>Raises quantities that trigger mandatory minimums for crack cocaine offenses involving manufacture, distribution, or possession (21 U.S.C. § 841); or importation or exportation (21 U.S.C. § 960):</p> <ul style="list-style-type: none"> • 10 years: 200g from 50g • 5 years: 20g from 5g
No corresponding provision	No corresponding provision	<p>Decreases quantities that trigger mandatory minimums for powder cocaine offenses involving manufacture, distribution, or possession (21 U.S.C. § 841); or importation or exportation (21 U.S.C. § 960):</p> <ul style="list-style-type: none"> • 10 years: 4kg from 5kg • 5 years: 400g from 500g
Amends 21 U.S.C. § 844(a) to eliminate the 5 year mandatory minimum sentence for simple possession of 5 grams of crack cocaine, equalizing crack and powder	Same as Hatch	<p>Amends 21 U.S.C. § 844(a) to lower the penalty for simple possession of crack cocaine to 1 year from 5 years for the following amounts:</p> <ul style="list-style-type: none"> • 5g if 1st conviction • 3g if 2nd conviction • 1g if 3rd conviction

<p>Sentencing Commission shall review and amend, if appropriate, sentencing guidelines for an offense involving trafficking of a controlled substance including:</p> <ul style="list-style-type: none"> • increasing the existing enhancement for the possession of a dangerous weapon • creating an enhancement for the use or brandishment of a dangerous weapon • creating an enhancement for the use, or threatened use, of violence 	<p>Sentencing Commission shall review and amend, if appropriate, sentencing guidelines for an offense involving trafficking of a controlled substance including:</p> <ul style="list-style-type: none"> • creating an enhancement for the use or brandishment of a dangerous weapon • creating an enhancement for the use, or threatened use, of violence 	<p>Sentencing Commission shall review and amend sentencing guidelines to provide additional penalty increase of 2-8 offense levels if, during the course of a drug trafficking offense, defendant:</p> <ul style="list-style-type: none"> • used, or made a credible threat, of violence • directed the use or threatened use of violence • possessed a firearm or other dangerous weapon
<p>Sentencing Commission shall review and amend, if appropriate, sentencing guidelines to take into account the culpability and role of the defendant</p> <p>For <i>aggravating</i> roles:</p> <ul style="list-style-type: none"> • Whether the offense committed was part of a pattern of “criminal livelihood” • Whether the defendant maintained an establishment for the manufacture and distribution of the controlled substance • Whether the defendant distributed controlled substance to someone under 18 or pregnant • Whether the defendant involved someone under 18 or someone who is pregnant in the offense 	<p>Sentencing Commission shall review and amend, if appropriate, sentencing guidelines to take into account the culpability and role of the defendant</p> <p>For <i>aggravating</i> roles – Same as Hatch PLUS:</p> <ul style="list-style-type: none"> • Whether the defendant is an organizer or leader of drug trafficking activities involving 5 or more persons • Whether bodily injury or death occurred in connection with the offense <p>AMENDS:</p> <ul style="list-style-type: none"> • Age: Whether the defendant distributed controlled substance to someone under 21 (Hatch is 18) or pregnant 	<p>Sentencing Commission shall increase leadership role enhancement by at least 2 additional offense levels if the defendant qualifies as an organizer, leader, manager, or supervisor, AND the offense involved at least one super-aggravating factor:</p> <ul style="list-style-type: none"> • Using another person to purchase, sell, transport, or store controlled substances; • Using impulse, fear, friendship, affection, or some combination thereof to involve such person in the offense; AND such person had a minimum knowledge of the crime and was to receive little or no compensation in return

<ul style="list-style-type: none"> • Whether the defendant manufactured or distributed in locations described in 21 USC § 849(a) or § 860(a) (elementary schools, youth centers, truck stops, etc.) • Whether the defendant bribed or attempted to bribe a law enforcement official in connection with the offense • Whether the defendant imported controlled substances into the U.S. from another country • Whether the defendant committed the offense after previous conviction of felony controlled substances offense <p>For <i>mitigating</i> roles:</p> <ul style="list-style-type: none"> • Whether the defendant had little knowledge of the illegal actions • Whether the defendant received little to no compensation for involvement in the offense • Whether the defendant engaged in the criminal activity on impulse, fear, or friendship when otherwise unlikely to do so 	<p>For <i>mitigating</i> roles: Same as Hatch PLUS:</p> <ul style="list-style-type: none"> • Whether any maximum base offense level should be established for a defendant who qualifies for a mitigating role adjustment <p>AMENDS:</p> <ul style="list-style-type: none"> • Adds “or affection”: Whether the defendant acted on impulse, fear, friendship, or affection when the defendant was otherwise unlikely to commit such an offense 	<ul style="list-style-type: none"> • Maintaining an establishment to manufacture or distribute a drug as described under 21 U.S.C. § 856 • Selling drugs to a minor under 18, person over 64, or pregnant woman; or involving them in drug trafficking • Bribing a law enforcement official in connection with a drug trafficking offense, including attempt • Importing drugs into the U.S. • Committing the offense as part of a pattern of criminal conduct engaged in as a livelihood <p>For <i>mitigating</i> roles: Caps at 32 base offense level for defendants qualifying for minimal role</p> <p>Adds extra 2 level reduction if defendant meets all of the following criteria:</p> <ul style="list-style-type: none"> • Qualifies for a minimal role adjustment and had minimum knowledge of the crime • Was to receive little or no compensation • Acted on impulse, fear, friendship, or affection when the defendant was otherwise unlikely to commit the offense
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No corresponding provision	Grant Appropriations for Drug Treatment and Demonstration Programs	No corresponding provision
No corresponding provision	No corresponding provision	Creates elderly, nonviolent prisoner pilot program, authorizing release of eligible prisoners to home detention if: <ul style="list-style-type: none"> • 65 or older • has served 10 years or ½ of term • does not have past violent offense • no history of violence • no escape, or attempt to escape, from prison • no violent infraction in prison
Emergency authority for the United States Sentencing Commission	Same	Same
No corresponding provision	Increased fines for major drug traffickers under 21 U.S.C. 841(b) and 960(b) Base offense levels: 1kg heroin; 5kg powder/crack cocaine; 100g PCP or 1kg PCP mixture; 10g LSD; 400g N-phenyl-N-propanimide or 100g analogue; 1,000kg marijuana or 1,000 plants; 50g meth or 500g meth mixture <ul style="list-style-type: none"> • First offense: to \$10 million from \$4 million for an individual; to \$50 million from \$10 million if defendant is other than an individual or both • If prior conviction for felony drug offense: to \$20 million from \$8 	No corresponding provision

	<p>million for an individual; to \$75 million from \$20 million if defendant is other than an individual or both</p> <p>Base offense levels: 100g heroin; 500g powder/crack cocaine; 10g PCP or 100g PCP mixture; 1g LSD; 40g N-phenyl-N-propanamide or 10g analogue; 100kg marijuana or 100 plants; 5g meth or 50g meth mixture</p> <ul style="list-style-type: none"> • First offense: to \$5 million from \$2 million for an individual; to \$25 million from \$5 million if defendant is other than an individual or both • If prior conviction for felony drug offense: to \$8 million from \$4 million for an individual; to \$50 million from \$10 million if defendant is other than an individual or both 	
No corresponding provision	Authorization of appropriations to Departments of Justice, Treasury, and Homeland Security for prosecution of high-level drug offenses	No corresponding provision
No corresponding provision	Prohibits retroactive application	Prohibits retroactive application