

The Stopping Over-Criminalization Act of 2015

Section 1—Short Title.

The “Stopping Over-Criminalization Act of 2015.”

Section 2—Purpose.

The purpose of the bill is to reduce the size, scope and complexity of the federal criminal code. To ensure that honest mistakes by individuals who are not morally blameworthy do not result in criminal charges, the Act establishes a default criminal state of mind requirement and allows a “mistake of law” defense for situations in which the defendant might reasonably be unaware the conduct could be criminally punished. Currently, federal crimes, including regulatory offenses, are scattered throughout the federal code and register. To enable all Americans to access and view federal crimes, the Act requires the Attorney General to create an inventory of all federal criminal offenses. To uphold the rule of Congress in defining what constitutes a federal crime, the Act holds that no new rule of the executive branch establishing a criminal offense shall have force unless approved by both branches of Congress.

Section 3—Clarification of Default *Mens Rea* for Federal Offenses.

For any federal criminal offense, unless otherwise specifically provided in law, the bill sets the state of mind required for a conviction as “knowing” for each element of the offense.

For an offense, like a regulatory offense, where a defendant might reasonably be unaware that the conduct is a crime, the Government must prove the defendant had reason to know the conduct was unlawful.

Section 4—Requiring an Inventory of All Federal Criminal Offenses.

Within one year of enactment, the bill requires the Attorney General to develop and make available to the public, online and through other appropriate means, an inventory of all federal criminal offenses, including rule violations that carry criminal penalties. The bill requires the Attorney General to keep the inventory as up to date as practicable.

The bill affirms that it is a defense against a prosecution for any federal offense that the crime is not listed in the inventory, unless the government demonstrates beyond a reasonable doubt that a reasonable person would have known the conduct was criminal in nature, or the conduct resulted in the imminent and foreseeable risk of death or bodily injury to another.

Section 5—Preserving the Role of Congress in Defining Federal Crimes

The bill prohibits any new rule with criminal penalties from taking effect until approved by a joint resolution of Congress. Upon proposing any rule that meets these guidelines, the agency proposing the rule must submit to Congress a copy of the rule and a justification for providing criminal penalties.

