

(B) **Definitions.**—For purposes of subsection (b)(1)(B):

“**Incompetent**” means an individual who is incapable of taking care of the individual’s self or property because of a mental or physical illness or disability, mental retardation, or senility.

“**Minor**” has the meaning given that term in Application Note 1 of the Commentary to §2A3.1 (Criminal Sexual Abuse).

**Background:** Subsection (b)(1) implements the instruction to the Commission in section 102 of Public Law 106–310.

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| <i>Historical Note</i> | Effective November 1, 1989 (amendment 140). Amended effective November 1, 1992 (amendment 447); December 16, 2000 (amendment 608); November 1, 2001 (amendment 620). |
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### §2D1.11. Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy

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- (a) **Base Offense Level:** The offense level from the Chemical Quantity Table set forth in subsection (d) or (e), as appropriate, except that if (A) the defendant receives an adjustment under §3B1.2 (Mitigating Role); and (B) the base offense level under subsection (d) is (i) level **32**, decrease by **2** levels; (ii) level **34** or level **36**, decrease by **3** levels; or (iii) level **38**, decrease by **4** levels.
- (b) **Specific Offense Characteristics**
  - (1) If a dangerous weapon (including a firearm) was possessed, increase by **2** levels.
  - (2) If the defendant is convicted of violating 21 U.S.C. § 841(c)(2) or (f)(1), or § 960(d)(2), (d)(3), or (d)(4), decrease by **3** levels, unless the defendant knew or believed that the listed chemical was to be used to manufacture a controlled substance unlawfully.
  - (3) If the offense involved (A) an unlawful discharge, emission, or release into the environment of a hazardous or toxic substance; or (B) the unlawful transportation, treatment, storage, or disposal of a hazardous waste, increase by **2** levels.
  - (4) If the defendant, or a person for whose conduct the defendant is accountable under §1B1.3 (Relevant Conduct), distributed a listed chemical through mass-marketing by means of an interactive computer service, increase by **2** levels.