

119TH CONGRESS
2D SESSION

S. 5383

To amend the Controlled Substances Act to schedule MGM–15 and MGM–16 as Schedule I Controlled substances, and to amend the controlled Substances Act to schedule synthetic 7-hydroxymitragynine, and Mitragynine Pseudoindoxyl, as a Schedule I above a specific threshold under the Controlled Substances Act, and to expand enforcement actions against drug manufacturers and distributors of emerging synthetic opioids, commonly known as gas station heroin.

IN THE SENATE OF THE UNITED STATES

AUGUST 8 (legislative day, AUGUST 7), 2026

Mr. MORENO introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to schedule MGM–15 and MGM–16 as Schedule I Controlled substances, and to amend the controlled Substances Act to schedule synthetic 7-hydroxymitragynine, and Mitragynine Pseudoindoxyl, as a Schedule I above a specific threshold under the Controlled Substances Act, and to expand enforcement actions against drug manufacturers and distributors of emerging synthetic opioids, commonly known as gas station heroin.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “End Gas Station Her-
3 oin Act”.

4 **SEC. 2. SCHEDULING OF 7-HYDROXYMITRAGYNINE AND**
5 **MITRAGYNINE PSEUDOINDOXYL.**

6 Schedule I of section 202(c) of the Controlled Sub-
7 stances Act (21 U.S.C. 812(c)) is amended, in subsection
8 (b), by adding at the end the following:

9 “(23)(A) 7-hydroxymitragynine (7-OH) and
10 mitragynine pseudoindoxyl, including their salts, iso-
11 mers, salts of isomers, esters, ethers, and synthetic
12 analogs, whenever the existence of such forms is pos-
13 sible.

14 “(B) This paragraph shall not apply to 7-
15 hydroxymitragynine or mitragynine pseudoindoxyl
16 naturally occurring in *Mitragyna speciosa* Korth
17 (kratom) or in a finished kratom product, provided
18 that—

19 “(i) in the case of a solid, powdered, or en-
20 capsulated product, the concentration of 7-
21 hydroxymitragynine and mitragynine
22 pseudoindoxyl, individually or in combination,
23 does not exceed 1 milligram per gram of prod-
24 uct;

25 “(ii) in the case of a liquid product, the
26 concentration of 7-hydroxymitragynine and

1 mitragynine pseudoindoxyl, individually or in
2 combination, does not exceed 1 milligram per
3 milliliter of product; and

4 “(iii) the combined amount of 7-
5 hydroxymitragynine and mitragynine
6 pseudoindoxyl, including their salts, isomers,
7 salts of isomers, esters, ethers, and synthetic
8 analogs, does not exceed 1 part per 100 parts
9 mitragynine by mass.

10 “(C) For purposes of this paragraph, any 7-
11 hydroxymitragynine or mitragynine pseudoindoxyl
12 that is synthesized, chemically converted, con-
13 centrated, enriched, isolated, or otherwise produced
14 through manufacturing processes shall not qualify
15 for the exemption described in subparagraph (B).”.

16 **SEC. 3. ENFORCEMENT AGAINST EMERGING SYNTHETIC**
17 **OPIOIDS IN COMMERCIAL DISTRIBUTION.**

18 (a) TREATMENT AS A SCHEDULE I CONTROLLED
19 SUBSTANCE.—Notwithstanding any other provision of
20 law, a covered emerging synthetic opioid shall, solely for
21 purposes of prohibiting and enforcing against its knowing
22 or intentional manufacture, importation, exportation, dis-
23 tribution, dispensing, or possession with intent to manu-
24 facture, import, export, distribute, or dispense, be treated

1 as a controlled substance in Schedule I of section 202(c)
2 of the Controlled Substances Act (21 U.S.C. 812(c)).

3 (b) CIVIL AND CRIMINAL ENFORCEMENT.—No per-
4 son shall be subject under this section to criminal or civil
5 enforcement based solely on the purchase, receipt, simple
6 possession, or personal use of a covered emerging syn-
7 thetic opioid.

8 (c) COVERED EMERGING SYNTHETIC OPIOID.—For
9 purposes of this section, the term “covered emerging syn-
10 thetic opioid” means a substance that—

11 (1) is being manufactured, offered, advertised,
12 sold, distributed, or otherwise introduced into com-
13 mercial distribution, or is intended by the person en-
14 gaging in the prohibited conduct to be introduced
15 into commercial distribution;

16 (2) is an opioid receptor agonist, or partial
17 agonist and, based on scientifically reliable evidence,
18 demonstrates greater functional potency than mor-
19 phine at the human mu-opioid receptor in a vali-
20 dated assay identified by regulation, or demonstrates
21 greater analgesic or respiratory-depressant potency
22 than morphine based on other scientifically reliable
23 evidence;

24 (3) is produced through chemical synthesis or
25 semisynthesis;

1 (4) is not the subject of an approved application
2 under section 505 of the Federal Food, Drug, and
3 Cosmetic Act (21 U.S.C. 355);

4 (5) is intended for human consumption;

5 (6) is not otherwise listed in any schedule under
6 section 202 of the Controlled Substances Act (21
7 U.S.C. 812); and

8 (7) is not excluded under subsection (g).

9 (d) COVERED CONDUCT.—This section shall apply
10 only to the knowing or intentional manufacture, distribu-
11 tion, or possession with intent to manufacture or dis-
12 tribute a covered emerging synthetic opioid.

13 (e) NO SIMPLE POSSESSION ENFORCEMENT.—No
14 person may be investigated, arrested, charged, prosecuted,
15 or subjected to civil penalties under this section solely for
16 simple possession or personal consumption of a covered
17 emerging synthetic opioid. Nothing in this subsection shall
18 prohibit enforcement based on possession with intent to
19 manufacture, distribute, dispense, import, or export.

20 (f) RELATIONSHIP TO THE CONTROLLED SUBSTANCE
21 ANALOGUE ENFORCEMENT ACT.—If a substance qualifies
22 both as—

23 (1) a controlled substance analogue under sec-
24 tion 102(32) of the Controlled Substances Act (21
25 U.S.C. 802(32)); and

1 (2) a covered emerging synthetic opioid under
2 this section,
3 the Attorney General may proceed under section 203 of
4 the Controlled Substances Act (21 U.S.C. 813), this sec-
5 tion, or any other applicable provision of Federal law.
6 Nothing in this section shall expand or limit the authority
7 of a State attorney general or other State official under
8 State law.

9 (g) EXCLUSIONS.—The term “covered emerging syn-
10 thetic opioid” does not include—

11 (1) a substance approved as a drug for medical
12 treatment under the Controlled Substances Act (21
13 U.S.C. 801 et seq.);

14 (2) a substance not intended for human con-
15 sumption;

16 (3) a naturally occurring constituent of a plant,
17 fungus, or other botanical material, or a constituent
18 derived through brewing or extraction process of a
19 natural plant, fungus, or other botanical material,
20 unless the constituent has been intentionally, iso-
21 lated, enriched, concentrated, chemically converted,
22 or added to a product for human consumption;

23 (4) a substance possessed or transferred solely
24 for legitimate scientific, medical, forensic, analytical,
25 or law-enforcement purposes; or

1 (5) a substance otherwise exempted by the At-
2 torney General through regulation.

3 (h) LIMITATION TO COMMERCIAL CONDUCT.—En-
4 forcement under this section may be based only on the
5 quantity or portion of a substance that is—

6 (1) introduced or intended to be introduced into
7 commercial distribution; and

8 (2) connected to conduct described in sub-
9 section (a).

10 The presence of the same substance outside commercial
11 distribution, including possession for authorized research,
12 analytical testing, forensic examination, or other non-
13 commercial purposes, shall not independently subject that
14 substance or conduct to enforcement under this section.

15 (i) DEFINITIONS.—For the purposes of this section—

16 (1) the term “commercial distribution” means
17 the advertisement, offering for sale, sale, shipment,
18 transfer for value, or distribution of a substance or
19 product in or affecting interstate, intrastate, or for-
20 eign commerce;

21 (2) whether a substance is “intended for human
22 consumption” shall be determined from all relevant
23 facts and circumstances, potentially including label-
24 ing, advertising, dosage form, method of sale, rep-

1 resentations by the seller, customary use, and evi-
2 dence concerning the intended market;

3 (3) the term “scientifically reliable evidence” in-
4 cludes validated in vitro, animal, human, pharmaco-
5 kinetic, pharmacodynamic, receptor-binding, func-
6 tional-activity, or other scientifically accepted evi-
7 dence identified by the Attorney General, in con-
8 sultation with the Secretary of Health and Human
9 Services; and

10 (4) the term “semisynthesis” means the chem-
11 ical modification or conversion of a naturally occur-
12 ring substance into a chemically distinct substance.

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