114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 114–787
Part 1

DANGEROUS SYNTHETIC DRUG CONTROL ACT OF 2016

SEPTEMBER 26, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 3537]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3537) to amend the Controlled Substances Act to clarify how controlled substance analogues are to be regulated, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dangerous Synthetic Drug Control Act of 2016".

SEC. 2. TREATMENT OF CERTAIN DESIGNER DRUGS AS SCHEDULE I CONTROLLED SUBSTANCES.

(a) CANNABIMIMETIC AGENTS.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended in subsection (d)(2)(B)—

(1) in clause (xiv) by striking "and" at the end;

(2) in clause (xv) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(xvi) 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone (JWH–251);

"(xvii) (1-butyl-1H-indol-3-yl)(4-methylnaphthalen-1-yl)methanone (4'-methyl JWH–073);

"(xviii) 2-(3-methoxyphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone (JWH–302);

"(xix) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide (5F–APICA);

"(xx) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5F–PB–22);

"(xxi) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB–PINACA);

"(xxii) N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide (MN–24);

"(xxiii) (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone (THJ–2201);

"(xxiv) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADBICA);

"(xxv) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F–AMB); and

"(xxvi) methyl 2-(1-(cyclohexylmethyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (MA–CHMINACA).".

(b) SYNTHETIC OPIOIDS.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended in subsection (a) by adding at the end the following:

"(43) Butyryl fentanyl.

"(44) beta-Hydroxythiofentanyl.

"(45) Acetyl fentanyl.".

(c) OTHER DRUGS.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended in subsection (c) by adding at the end the following:

"(29) 1-(naphthalen-1-yl)-2-(pyrrolidin-1-yl)pentan-1-one (a-naphyrone).

"(30) 1-(2,3-dihydrobenzofuran-5-yl)propan-2-amine (5–APDB).

"(31) 1-(2,3-dihydrobenzofuran-6-yl)propan-2-amine (6–APDB).

"(32) 6,7-dihydro-5H-indeno[5,6-d][1,3]dioxol-6-amine (MDAI).

"(33) 5-iodo-2,3-dihydro-1H-inden-2-amine (5–IAI).

"(34) 1-(4-bromofuro[2,3-f]benzofuran-8-yl)propan-2-amine (bromo-dragonfly).

"(35) 1-(4-chloro-2,5-dimethoxyphenyl)propan-2-amine (DOC).

"(36) 1-(4-ethoxy-2,5-dimethoxyphenyl)propan-2-amine (MEM).".

Amend the title so as to read:

A bill to amend the Controlled Substances Act to add certain synthetic substances to schedule I, and for other purposes.

PURPOSE AND SUMMARY

The bill would amend section 202(c) of the Controlled Substances Act (CSA) by adding twenty-two synthetic drug compounds to Schedule I.

BACKGROUND AND NEED FOR LEGISLATION

According to the Drug Enforcement Administration (DEA), abuse and misuse of synthetic drugs is an ongoing threat to public health and safety. These chemical compounds are often designed in laboratories to mimic the effects of illicit drugs and known controlled substances such as marijuana and fentanyl, a synthetic opioid 100 times as powerful as morphine. Criminals who develop and market these drug products in communities across our country have been

able to stay one step ahead of the DEA since, while they closely resemble controlled substances, they are not currently scheduled. Placing these dangerous compounds on Schedule I of the CSA will assist DEA in their prosecution of individuals peddling them.

HEARINGS

The Subcommittee on Health held a hearing on H.R. 3537 on October 7, 2015. The Subcommittee received testimony from Dr. Kenneth Katz, Lehigh Valley Health Network, Department of Emergency Medicine, Section of Medical Toxicology.

COMMITTEE CONSIDERATION

On November 3 and 4, 2015, the Subcommittee on Health met in open markup session and favorably forwarded H.R. 3537 to the full Committee, without amendment, by a voice vote. On September 20 and 21, 2016, the full Committee met in open markup session and ordered H.R. 3537, as amended, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 3537 reported.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The purpose of this bill is aid DEA in its prosecution of individuals distributing certain synthetic drug compounds.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3537 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 3537 contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

At the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 3537 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 3537 specifically directs to be completed zero specific rule makings within the meaning of 5 U.S.C. 551.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1: Short title

Section 1 provides the short title of "Dangerous Synthetic Drug Control Act of 2016".

Section 2: Treatment of certain designer drugs as schedule I controlled substances

Section 2 amends Schedule I, as set forth in section 202(c) of the CSA by adding new synthetic compounds, including cannabimimetic agents and synthetic opioids.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CONTROLLED SUBSTANCES ACT

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TITLE II—CONTROL AND ENFORCEMENT

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PART B—AUTHORITY TO CONTROL; STANDARDS AND SCHEDULES

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SCHEDULES OF CONTROLLED SUBSTANCES

SEC. 202. (a) There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after the date of enactment of this title and shall be updated and republished on an annual basis thereafter.

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on the effective date of this part, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

(c) Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 201, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmathadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.

(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Racemoramide.
(42)Trimeperidine.
(43) Butyryl fentanyl.
(44) beta-Hydroxythiofentanyl.
(45) Acetyl fentanyl.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methylhydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-Oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxy amphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marihuana.

(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.
(18) 4-methylmethcathinone (Mephedrone).
(19) 3,4-methylenedioxypyrovalerone (MDPV).
(20) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E).
(21) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D).
(22) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C).
(23) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I).
(24) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2).
(25) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4).
(26) 2-(2,5-Dimethoxyphenyl)ethanamine (2C–H).
(27) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C–N).
(28)2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C–P).
(29) 1-(naphthalen-1-yl)-2-(pyrrolidin-1-yl)pentan-1-one (α-naphyrone).
(30) 1-(2,3-dihydrobenzofuran-5-yl)propan-2-amine (5–APDB).
(31) 1-(2,3-dihydrobenzofuran-6-yl)propan-2-amine (6–APDB).
(32) 6,7-dihydro-5H-indeno[5,6-d][1,3]dioxol-6-amine (MDAI).
(33) 5-iodo-2,3-dihydro-1H-inden-2-amine (5–IAI).
(34) 1-(4-bromofuro[2,3-f]benzofuran-8-yl)propan-2-amine (bromo-dragonfly).
(35) 1-(4-chloro-2,5-dimethoxyphenyl)propan-2-amine (DOC).
(36) 1-(4-ethoxy-2,5-dimethoxyphenyl)propan-2-amine (MEM).

(d)(1) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(2) In paragraph (1):

(A) The term "cannabimimetic agents" means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

(ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

(iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

(v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

(B) Such term includes—

(i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP–47,497);

(ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP–47,497 C8-homolog);

(iii) 1-pentyl-3-(1-naphthoyl)indole (JWH–018 and AM678);

(iv) 1-butyl-3-(1-naphthoyl)indole (JWH–073);

(v) 1-hexyl-3-(1-naphthoyl)indole (JWH–019);

(vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200);

(vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH–250);

(viii) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH–081);

(ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH–122);

(x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH–398);

(xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

(xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

(xiii) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR–19 and RCS–4);

(xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR–18 and RCS–8); **[**and**]**

(xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH–203)**[**.**]***;*

(xvi) 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone (JWH–251);

(xvii) (1-butyl-1H-indol-3-yl)(4-methylnaphthalen-1-yl)methanone (4′-methyl JWH–073);

(xviii) 2-(3-methoxyphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone (JWH–302);

(xix) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide (5F–APICA);

(xx) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5F–PB–22);

(xxi) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB–PINACA);

(xxii) N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide (MN–24);

(xxiii) (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone (THJ–2201);

(xxiv) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADBICA);

(xxv) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F–AMB); and

(xxvi) methyl 2-(1-(cyclohexylmethyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (MA–CHMINACA).

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