

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2851) TO AMEND THE CONTROLLED SUBSTANCES ACT TO CLARIFY HOW CONTROLLED SUBSTANCE ANALOGUES ARE TO BE REGULATED, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5735) TO AMEND THE UNITED STATES HOUSING ACT OF 1937 TO ESTABLISH A DEMONSTRATION PROGRAM TO SET ASIDE SECTION 8 HOUSING VOUCHERS FOR SUPPORTIVE AND TRANSITIONAL HOUSING FOR INDIVIDUALS RECOVERING FROM OPIOID USE DISORDERS OR OTHER SUBSTANCE USE DISORDERS, AND FOR OTHER PURPOSES; AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5788) TO PROVIDE FOR THE PROCESSING BY U.S. CUSTOMS AND BORDER PROTECTION OF CERTAIN INTERNATIONAL MAIL SHIPMENTS AND TO REQUIRE THE PROVISION OF ADVANCE ELECTRONIC INFORMATION ON INTERNATIONAL MAIL SHIPMENTS OF MAIL, AND FOR OTHER PURPOSES

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JUNE 12, 2018.—Referred to the House Calendar and ordered to be printed

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Mr. BUCK, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 934]

The Committee on Rules, having had under consideration House Resolution 934, by a record vote of 7 to 4, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2851, the Stop the Importation and Trafficking of Synthetic Analogues Act of 2017, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-74 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be

debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part A of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 5735, the Transitional Housing for Recovery in Viable Environments Demonstration Program Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-73 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides for one motion to recommit with or without instructions.

Section 3 of the resolution provides for consideration of H.R. 5788, the Securing the International Mail Against Opioids Act of 2018, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment printed in part C of this report, modified by the amendment printed in part D of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

#### EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 2851, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment in the nature of the substitute to H.R. 2851 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 5735, includes a waiver of clause 3(d)(1) of rule XIII, which requires the inclusion of a committee cost estimate. It is important to note that while a Congressional Budget Office (CBO) cost estimate on H.R. 5735 was not available at the time the Committee on Financial Services filed its report, a CBO cost estimate has since been made publicly available.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 5735 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 5788, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 5788, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### *Rules Committee record vote No. 233*

Motion by Mr. Polis to make in order and provide the appropriate waivers to amendment #10, offered by Rep. Pocan (WI) and Rep. Gosar (AZ) and Rep. Polis (CO), which prevents the Secretary from placing a natural botanical substance under new Scheduling authority, and would require Secretary to use existing scheduling proceedings under the Controlled Substances Act, if supported by existing medical and scientific facts. Defeated: 4–6

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....		Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Collins .....	Nay	Mrs. Torres .....	Yea
Mr. Byrne .....			
Mr. Newhouse .....	Nay		
Mr. Buck .....			
Ms. Cheney .....	Nay		
Mr. Sessions, Chairman .....	Nay		

##### *Rules Committee record vote No. 234*

Motion by Mr. Polis to make in order and provide the appropriate waivers to amendment #7, offered by Rep. Polis (CO) and Rep. Correa (CA), which requires the VA to study medicinal marijuana as an alternative treatment option to prescription opioids. Defeated: 4–7

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....		Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea

Majority Members	Vote	Minority Members	Vote
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Collins .....	Nay	Mrs. Torres .....	Yea
Mr. Byrne .....	.....		
Mr. Newhouse .....	Nay		
Mr. Buck .....	Nay		
Ms. Cheney .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 235*

Motion by Mr. Woodall to report the rule. Adopted: 7–4

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....	.....	Mr. McGovern .....	Nay
Mr. Woodall .....	Yea	Mr. Hastings of Florida .....	Nay
Mr. Burgess .....	Yea	Mr. Polis .....	Nay
Mr. Collins .....	Yea	Mrs. Torres .....	Nay
Mr. Byrne .....	.....		
Mr. Newhouse .....	Yea		
Mr. Buck .....	Yea		
Ms. Cheney .....	Yea		
Mr. Sessions, Chairman .....	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 2851 IN PART A MADE IN ORDER

1. Griffith (VA), Raskin (MD), Jackson Lee (TX): Incorporates an inter-agency agreement transmitted to Congress by the Office of National Drug Control Policy (ONDCP), the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Justice (DOJ). Specifically, the amendment clarifies when the Attorney General can temporarily and permanently schedule a drug or substance to the newly created schedule A and prevents the Attorney General from permanently scheduling that drug or substance if the Secretary of HHS determines that there is not sufficient potential for abuse. The amendment also clarifies under what circumstances an applicant for a schedule A registration may continue to conduct research with such schedule A substance while their application is pending, among their research accommodations. (10 minutes)

2. Jackson Lee (TX): Strikes sentencing commission provision. (10 minutes)

3. Maloney, Sean (NY): Requires the Drug Enforcement Administration to make available a report on controlled substance analogues sold by means of the internet. (10 minutes)

4. Thornberry (TX): Specifies the factors to determine whether a controlled substance analogue is intended for human consumption, thus making it easier for law enforcement and health officials to take action against synthetic drug manufacturers, distributors, and sellers. (10 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 5735 IN PART B MADE IN ORDER

1. Barr (KY): Clarifies selection requirements for eligible entities, removes recovery treatment time limits, and makes additional technical changes. (10 minutes)

2. Rohrabacher (CA), Barr (KY): Alters the application section to require eligible entities to provide proof to the Secretary that the supportive housing facilities to which they provide financial assistance have authorization to operate by the local government with jurisdiction over that zone. (10 minutes)

3. Moore, Gwen (WI): Addresses the devastating opioid crisis in tribal communities by ensuring that tribal housing authorities are designated as eligible entities to receive vouchers and ensuring that the selection criteria for awarding vouchers reflects the impact that opioids is having in tribal communities. (10 minutes)

4. Biggs (AZ): Removes a requirement to include recommendations for further continuation and expansion of the voucher program in a report to Congress. (10 minutes)

SUMMARY OF THE AMENDMENT TO H.R. 5788 IN PART C CONSIDERED  
AS ADOPTED

1. Bishop, Mike (MI), Reichert (WA), Faso (NY): SUBSTITUTE Changes the title of the bill to the “Synthetics Trafficking and Overdose Prevention Act of 2018” and further strengthens the requirement for the U.S. Postal Service (USPS) to transmit advance electronic data (AED) to Customs and Border Protection (CBP) in several significant ways: (1) Expedites the second deadline for the U.S. Postal Service (USPS) to transmit advance electronic data (AED) from 95% by December 31, 2022 to 100% by December 21, 2020; (2) Removes the waivers (“foreign capacity,” “extraordinary reasons,” and “national security interest”) from the obligation to transmit AED; and (3) establishes civil penalties if USPS accepts international mail shipments without AED after December 31, 2020.

SUMMARY OF THE AMENDMENT TO H.R. 5788 IN PART D CONSIDERED  
AS ADOPTED

1. Bishop, Mike (MI): Allows a limited waiver from the requirement to provide 100 percent of data electronically for any country if the Commissioner determines that country: (1) does not have the capacity to collect and transmit advance electronic data; (2) represents a low risk for shipments that violate relevant U.S. laws and regulations; and (3) accounts for low volumes of mail shipments that can be effectively screened for compliance with relevant U.S. laws and regulations through an alternate means; Gives the Commissioner additional discretion to modify penalties upon making the findings already listed in the amendment.

PART A—TEXT OF AMENDMENTS TO H.R. 5851 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GRIFFITH  
OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, strike lines 3 through 6, and insert the following:

- “(i) the chemical structure and—
  - “(I) the structure activity relationships; or
  - “(II) binding receptor assays and other relevant scientific information about the substance;”.

Page 3, line 17, strike “subsection (c)—” and insert “subsection (c), in the matter preceding schedule I, by striking ‘IV, and V’ and inserting ‘IV, V, and A’”.

Beginning on page 3, strike line 18 and all that follows through page 4, line 12.

Page 5, beginning on line 2, strike “or misuse”.

Page 5, strike line 23 and all that follows through page 6, line 5, and insert the following:

“(5)(A) Beginning no earlier than 3 years after issuing an order temporarily scheduling a drug or other substance under this subsection, the Attorney General may, by rule, issue a permanent order adding a drug or other substance to schedule A if such drug or substance satisfies the criteria for being considered a controlled substance in schedule A under this subsection, except as provided in subparagraph (B).

“(B) If the Secretary has determined, based on relevant scientific studies and necessary data requested by the Secretary and gathered by the Attorney General, that a drug or other substance that has been temporarily placed in schedule A does not have sufficient potential for abuse to warrant control in any schedule, and so advises the Attorney General in writing, the Attorney General may not issue a permanent scheduling order under subparagraph (A) and shall, within 30 days of receiving the Secretary’s advice issue an order immediately terminating the temporary scheduling order.”.

Page 6, line 7, strike “or (5)”.

Page 6, line 8, strike “an order” and insert “a temporary order”.

Page 6, line 10, strike “or (5)”.

Page 15, line 9, strike “Not later” and insert “(A) Not later”.

Page 15, after line 15 insert the following:

“(B)(i) If an applicant described in subparagraph (A) is registered pursuant to subsection (f) to conduct research with a controlled substance in schedule I or II on the date on which another substance is placed in schedule A, the applicant may, subject to clause (iii), conduct research with that other controlled substance in schedule A while the application for registration pursuant to subparagraph (A) is pending.

“(ii) If an applicant described in subparagraph (A) is registered pursuant to subsection (f) as described in clause (i) to conduct research with a controlled substance in schedule III, IV, or V on the date on which another substance is placed in schedule A, the applicant may, subject to clause (iii), conduct research with that other controlled substance in schedule A while the application for registration pursuant to subparagraph (A) is pending, provided the substance for which the applicant is registered to conduct research is in the same schedule as, or a less-restricted schedule than, the controlled substance whose similarity in chemical structure and actual or predicted effect to the controlled substance in schedule A formed the basis for placement of the substance in schedule A, as set forth in the order published in the Federal Register placing the substance in schedule A.

“(iii) The permission to conduct research pursuant to clause (i) or clause (ii) is conditional on the applicant’s complying with the registration and other requirements for controlled substances in schedule A.

“(iv) This subparagraph does not apply to applicants registered pursuant to subsection (f) whose authorization to conduct research with any controlled substances is limited to doing so as a coincident activity pursuant to applicable regulations of the Attorney General.”

Page 16, line 19, insert after the period the following: “The 60-day period under subsection (m)(2)(A) shall be tolled during the period beginning on the date on which the Attorney General refers an application to the Secretary under this paragraph, and ending on the date on which the Secretary submits a determination related to such referral to the Attorney General.”

Page 16, beginning on line 20, strike “If the applicant” through “this paragraph.” on page 17, line 1, and insert the following: “An applicant who meets the criteria under subsection (m)(1)(B) with respect to a particular schedule A controlled substance shall be considered qualified to conduct research with that substance. The Attorney General shall modify such applicant’s registration to include such schedule A controlled substance in accordance with this paragraph.”

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 9 (and redesignate provisions accordingly).

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SEAN MALONEY OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the committee print, add the following new section:

**SEC. 12. REPORT ON CONTROLLED SUBSTANCE ANALOGUES SOLD BY MEANS OF THE INTERNET.**

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator of the Drug Enforcement Administration shall make publicly available on the website of the Drug Enforcement Administration a report on, for the previous year, the lawful and unlawful sale of controlled substance analogues (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) by means of the Internet, including the following information:

(1) The types of controlled substance analogues that were sold, and the number of sales for each such substance.

(2) The name of each person, entity, or Internet site, whether in the United States or abroad, that knowingly or intentionally delivers, distributes, or dispenses, or offers or attempts to deliver, distribute, or dispense, a controlled substance analogue by means of the Internet, whether lawfully or unlawfully.

(3) An estimate of the total revenue for all of the vendors described in paragraph (2) for all of the sales described in paragraph (1).

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE THORNBERRY OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the committee print, add the following new section:

**SEC. 12. CONTROLLED SUBSTANCE ANALOGUES.**

Section 203 of the Controlled Substances Act (21 U.S.C. 813) is amended—

(1) by striking “A controlled” and inserting “(a) IN GENERAL.—A controlled”; and

(2) by adding at the end the following:

“(b) DETERMINATION.—In determining whether a controlled substance analogue was intended for human consumption under subsection (a), the following factors may be considered, along with any other relevant factors:

“(1) The marketing, advertising, and labeling of the substance.

“(2) The known efficacy or usefulness of the substance for the marketed, advertised or labeled purpose.

“(3) The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold.

“(4) The diversion of the substance from legitimate channels and the clandestine importation, manufacture, or distribution of the substance.

“(5) Whether the defendant knew or should have known the substance was intended to be consumed by injection, inhalation, ingestion, or any other immediate means.

“(6) Any controlled substance analogue that is manufactured, formulated, sold, distributed, or marketed with the intent to avoid the provisions of existing drug laws.

“(c) LIMITATION.—For purposes of this section, evidence that a substance was not marketed, advertised, or labeled for human consumption, by itself, shall not be sufficient to establish that the substance was not intended for human consumption.”

PART B—TEXT OF AMENDMENTS TO H.R. 5735 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BARR OF KENTUCKY OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 1, line 7, strike “**AND TRANSITIONAL**”.

Page 1, line 15, strike “AND TRANSITIONAL”.

Page 2, line 11, strike “and transitional”.

Page 2, line 14, strike “job skills training” and insert “coordination with workforce development providers”.

Page 2, lines 15 and 16, strike “for a period of 12 to 24 months” and insert “, as determined by the entity”.

Page 2, lines 18 and 19, strike “for each of fiscal years 2019 through 2023” and insert “for fiscal year 2019”.

Page 2, line 22, strike “allocated” and insert “renewed”.

Page 3, lines 5 and 6, strike “a job skills training program” and insert “demonstrate the ability to coordinate with workforce development providers”.

Page 3, line 13, strike “transitional” and insert “supportive”.

Page 4, line 4, strike “job skills training” and insert “coordination with workforce development providers”.



Page 4, line 15, strike “job skills training” and insert “coordination with workforce development opportunities”.

Page 5, line 3, strike “and”.

Page 5, after line 3, insert the following:

“(III) have adequate resources for treatment, recovery, and supportive services;

“(IV) fully comply with the Fair Housing Act (42 U.S.C. 3601 et seq.) and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.); and”.

Page 5, line 4, strike “(III)” and insert “(V)”.

Page 5, line 12, before the dash insert “, in consultation with the Secretary of Health and Human Services and the Secretary of Labor”.

Page 5, line 17, before “opioid” insert “illicit”.

Page 5, strike lines 19 through 25 and insert the following:

“(II) the coordination with workforce development providers by the eligible entity;

“(III) the percentage of participants in unsubsidized employment during the second and fourth calendar quarter after exit from the program;”.

Page 6, strike “that—” in line 3 and all that follows through “do not” in line 4 and insert “that do not”.

Page 6, line 6, strike “; and” and insert a period.

Page 6, strike lines 7 through 12.

Page 6, line 13, strike “TRANSFER” and insert “REISSUANCE”.

Page 6, after line 23, insert the following:

“(H) WAIVERS.—The Secretary may, through publication of a notice in the Federal Register, waive or specify alternative requirements for any provision of statute or regulation governing the use of vouchers under this subsection (except for requirements relating to fair housing, non-discrimination, labor standards, or the environment) upon a finding by the Secretary that such waiver or alternative requirement is necessary for the purposes of this paragraph.”.

Page 6, line 24, strike “(H)” and insert “(I)”.

Page 8, line 11, strike “(I)” and insert “(J)”.

Page 9, line 1, strike “**RETURN OF VOUCHERS**” and insert “**DEMONSTRATION CLOSE-OUT**”.

Page 9, line 6, strike “on” and insert “not later than”.

Page 9, line 8, before the period insert “for use only for renewals of expiring contracts for such assistance”.

Page 9, after line 8, add the following new section:

**SEC. 5. NO ADDITIONAL FUNDS AUTHORIZED.**

No additional funds are authorized to be appropriated to carry out the requirements of this Act and the amendments made by this Act. Such requirements shall be carried out using amounts otherwise authorized to be appropriated.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROHRBACHER OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 10, strike “and”.

Page 4, line 17, strike the period and insert “; and”.

Page 4, after line 17, insert the following:

“(iii) evidence sufficient to demonstrate that the local government having jurisdiction over the location of any supportive housing facility to be used by the eligible entity in connection with the demonstration program under this paragraph permits such facilities in such location.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOORE OF WISCONSIN OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, line 3, strike “; and” and insert “, including tribal communities;”.

Page 5, after line 3, insert the following:

“(III) appropriately reflect the impact that opioids are having in tribal communities; and”.

Page 5, line 4, strike “(III)” and insert “(IV)”.

Page 8, line 13, after “means” insert the following: “a tribally designated housing entity (as such term is defined in section 4 of the Native American Housing and Self-Determination Act of 1996 (24 U.S.C. 4103)), or”.

Page 8, line 14, after “tion” insert a comma.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BIGGS OF ARIZONA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, strike “, that includes” in line 6 and all that follows through “such assistance” in line 10.

PART C—TEXT OF AMENDMENT TO H.R. 5788 CONSIDERED AS ADOPTED

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Synthetics Trafficking and Overdose Prevention Act of 2018” or “STOP Act of 2018”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Customs fees.
- Sec. 3. Mandatory advance electronic information for postal shipments.
- Sec. 4. International postal agreements.
- Sec. 5. Cost recoupment.
- Sec. 6. Development of technology to detect illicit narcotics.
- Sec. 7. Civil penalties for postal shipments.
- Sec. 8. Report on violations of arrival, reporting, entry, and clearance requirements and falsity or lack of manifest.
- Sec. 9. Effective date; regulations.

**SEC. 2. CUSTOMS FEES.**

(a) **IN GENERAL.**—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended by adding at the end the following:

“(D)(i) With respect to the processing of items that are sent to the United States through the international postal network by ‘Inbound Express Mail service’ or ‘Inbound EMS’ (as that

service is described in the mail classification schedule referred to in section 3631 of title 39, United States Code), the following payments are required:

“(I) \$1 per Inbound EMS item.

“(II) If an Inbound EMS item is formally entered, the fee provided for under subsection (a)(9), if applicable.

“(ii) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the payments required by clause (i), as allocated pursuant to clause (iii)(I), shall be the only payments required for reimbursement of U.S. Customs and Border Protection for customs services provided in connection with the processing of an Inbound EMS item.

“(iii)(I) The payments required by clause (i) shall be allocated as follows:

“(aa) 50 percent of the amount of the payments shall be paid on a quarterly basis by the United States Postal Service to the Commissioner of U.S. Customs and Border Protection in accordance with regulations prescribed by the Secretary of the Treasury to reimburse U.S. Customs and Border Protection for customs services provided in connection with the processing of Inbound EMS items.

“(bb) 50 percent of the amount of the payments shall be retained by the Postal Service to reimburse the Postal Service for services provided in connection with the customs processing of Inbound EMS items.

“(II) Payments received by U.S. Customs and Border Protection under subclause (I)(aa) shall, in accordance with section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), be deposited in the Customs User Fee Account and used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to international mail facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of such services.

“(III) Payments retained by the Postal Service under subclause (I)(bb) shall be used to directly reimburse the Postal Service for the costs incurred in providing services in connection with the customs processing of Inbound EMS items.

“(iv) Beginning in fiscal year 2021, the Secretary, in consultation with the Postmaster General, may adjust, not more frequently than once each fiscal year, the amount described in clause (i)(I) to an amount commensurate with the costs of services provided in connection with the customs processing of Inbound EMS items, consistent with the obligations of the United States under international agreements.”.

(b) CONFORMING AMENDMENTS.—Section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended—

(1) in paragraph (6), by inserting “(other than an item subject to a fee under subsection (b)(9)(D))” after “customs officer”; and

(2) in paragraph (10)—

(A) in subparagraph (C), in the matter preceding clause (i), by inserting “(other than Inbound EMS items described in subsection (b)(9)(D))” after “release”; and

- (B) in the flush at the end, by inserting “or of Inbound EMS items described in subsection (b)(9)(D),” after “(C),”.
- (c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2020.

**SEC. 3. MANDATORY ADVANCE ELECTRONIC INFORMATION FOR POSTAL SHIPMENTS.**

(a) MANDATORY ADVANCE ELECTRONIC INFORMATION.—

(1) IN GENERAL.—Section 343(a)(3)(K) of the Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071 note) is amended to read as follows:

“(K)(i) The Secretary shall prescribe regulations requiring the United States Postal Service to transmit the information described in paragraphs (1) and (2) to the Commissioner of U.S. Customs and Border Protection for international mail shipments by the Postal Service (including shipments to the Postal Service from foreign postal operators that are transported by private carrier) consistent with the requirements of this subparagraph.

“(ii) In prescribing regulations under clause (i), the Secretary shall impose requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) that are comparable to the requirements for the transmission of such information imposed on similar non-mail shipments of cargo, taking into account the parameters set forth in subparagraphs (A) through (J).

“(iii) The regulations prescribed under clause (i) shall require the transmission of the information described in paragraphs (1) and (2) with respect to a shipment as soon as practicable in relation to the transportation of the shipment, consistent with subparagraph (H).

“(iv) Regulations prescribed under clause (i) shall allow for the requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) to be implemented in phases, as appropriate, by—

“(I) setting incremental targets for increasing the percentage of such shipments for which information is required to be transmitted to the Commissioner; and

“(II) taking into consideration—

“(aa) the risk posed by such shipments;

“(bb) the volume of mail shipped to the United States by or through a particular country; and

“(cc) the capacities of foreign postal operators to provide that information to the Postal Service.

“(v)(I) Notwithstanding clause (iv), the Postal Service shall, not later than December 31, 2018, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for not less than 70 percent of the aggregate number of mail shipments, including 100 percent of mail shipments from the People’s Republic of China, described in clause (i).

“(II) If the requirements of subclause (I) are not met, the Comptroller General of the United States shall submit to

the appropriate congressional committees, not later than June 30, 2019, a report—

“(aa) assessing the reasons for the failure to meet those requirements; and

“(bb) identifying recommendations to improve the collection by the Postal Service of the information described in paragraphs (1) and (2).

“(vi) Notwithstanding clause (iv), the Postal Service shall, not later than December 31, 2020, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for 100 percent of the aggregate number of mail shipments described in clause (i).

“(vii)(I) The Postmaster General shall, in consultation with the Commissioner, refuse any shipments received after December 31, 2020, for which the information described in paragraphs (1) and (2) is not transmitted as required under this subparagraph, except as provided in subclause (II).

“(II) If remedial action is warranted in lieu of refusal of a shipment pursuant to subclause (I), the Postmaster General and the Commissioner shall take remedial action with respect to the shipment, including destruction, seizure, controlled delivery or other law enforcement initiatives, or correction of the failure to provide the information described in paragraphs (1) and (2) with respect to the shipment.

“(viii) Nothing in this subparagraph shall be construed to limit the authority of the Secretary to obtain information relating to international mail shipments from private carriers or other appropriate parties.

“(ix) In this subparagraph, the term ‘appropriate congressional committees’ means—

“(I) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(II) the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security of the House of Representatives.”

(2) JOINT STRATEGIC PLAN ON MANDATORY ADVANCE INFORMATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Postmaster General shall develop and submit to the appropriate congressional committees a joint strategic plan detailing specific performance measures for achieving—

(A) the transmission of information as required by section 343(a)(3)(K) of the Trade Act of 2002, as amended by paragraph (1); and

(B) the presentation by the Postal Service to U.S. Customs and Border Protection of all mail targeted by U.S. Customs and Border Protection for inspection.

(b) CAPACITY BUILDING.—

(1) IN GENERAL.—Section 343(a) of the Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071 note) is amended by adding at the end the following:

“(5) CAPACITY BUILDING.—

“(A) IN GENERAL.—The Secretary, with the concurrence of the Secretary of State, and in coordination with the Postmaster General and the heads of other Federal agencies, as appropriate, may provide technical assistance, equipment, technology, and training to enhance the capacity of foreign postal operators—

“(i) to gather and provide the information required by paragraph (3)(K); and

“(ii) to otherwise gather and provide postal shipment information related to—

“(I) terrorism;

“(II) items the importation or introduction of which into the United States is prohibited or restricted, including controlled substances; and

“(III) such other concerns as the Secretary determines appropriate.

“(B) PROVISION OF EQUIPMENT AND TECHNOLOGY.—With respect to the provision of equipment and technology under subparagraph (A), the Secretary may lease, loan, provide, or otherwise assist in the deployment of such equipment and technology under such terms and conditions as the Secretary may prescribe, including nonreimbursable loans or the transfer of ownership of equipment and technology.”.

(2) JOINT STRATEGIC PLAN ON CAPACITY BUILDING.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security and the Postmaster General shall, in consultation with the Secretary of State, jointly develop and submit to the appropriate congressional committees a joint strategic plan—

(A) detailing the extent to which U.S. Customs and Border Protection and the United States Postal Service are engaged in capacity building efforts under section 343(a)(5) of the Trade Act of 2002, as added by paragraph (1);

(B) describing plans for future capacity building efforts; and

(C) assessing how capacity building has increased the ability of U.S. Customs and Border Protection and the Postal Service to advance the goals of this Act and the amendments made by this Act.

(c) REPORT AND CONSULTATIONS BY SECRETARY OF HOMELAND SECURITY AND POSTMASTER GENERAL.—

(1) REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter until 3 years after the Postmaster General has met the requirement under clause (vi) of subparagraph (K) of section 343(a)(3) of the Trade Act of 2002, as amended by subsection (a)(1), the Secretary of Homeland Security and the Postmaster General shall, in consultation with the Secretary of State, jointly submit to the appropriate congressional committees a report on compliance with that subparagraph that includes the following:

(A) An assessment of the status of the regulations required to be promulgated under that subparagraph.

(B) An update regarding new and existing agreements reached with foreign postal operators for the transmission of the information required by that subparagraph.

(C) A summary of deliberations between the United States Postal Service and foreign postal operators with respect to issues relating to the transmission of that information.

(D) A summary of the progress made in achieving the transmission of that information for the percentage of shipments required by that subparagraph.

(E) An assessment of the quality of that information being received by foreign postal operators, as determined by the Secretary of Homeland Security, and actions taken to improve the quality of that information.

(F) A summary of policies established by the Universal Postal Union that may affect the ability of the Postmaster General to obtain the transmission of that information.

(G) A summary of the use of technology to detect illicit synthetic opioids and other illegal substances in international mail parcels and planned acquisitions and advancements in such technology.

(H) Such other information as the Secretary of Homeland Security and the Postmaster General consider appropriate with respect to obtaining the transmission of information required by that subparagraph.

(2) CONSULTATIONS.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until the Postmaster General has met the requirement under clause (vi) of section 343(a)(3)(K) of the Trade Act of 2002, as amended by subsection (a)(1), to arrange for the transmission of information with respect to 100 percent of the aggregate number of mail shipments described in clause (i) of that section, the Secretary of Homeland Security and the Postmaster General shall provide briefings to the appropriate congressional committees on the progress made in achieving the transmission of that information for that percentage of shipments.

(d) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than June 30, 2019, the Comptroller General of the United States shall submit to the appropriate congressional committees a report—

(1) assessing the progress of the United States Postal Service in achieving the transmission of the information required by subparagraph (K) of section 343(a)(3) of the Trade Act of 2002, as amended by subsection (a)(1), for the percentage of shipments required by that subparagraph;

(2) assessing the quality of the information received from foreign postal operators for targeting purposes;

(3) assessing the specific percentage of targeted mail presented by the Postal Service to U.S. Customs and Border Protection for inspection;

(4) describing the costs of collecting the information required by such subparagraph (K) from foreign postal operators and the costs of implementing the use of that information;

(5) assessing the benefits of receiving that information with respect to international mail shipments;

(6) assessing the feasibility of assessing a customs fee under section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 2, on international mail shipments other than Inbound Express Mail service in a manner consistent with the obligations of the United States under international agreements; and

(7) identifying recommendations, including recommendations for legislation, to improve the compliance of the Postal Service with such subparagraph (K), including an assessment of whether the detection of illicit synthetic opioids in the international mail would be improved by—

(A) requiring the Postal Service to serve as the consignee for international mail shipments containing goods; or

(B) designating a customs broker to act as an importer of record for international mail shipments containing goods.

(e) TECHNICAL CORRECTION.—Section 343 of the Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071 note) is amended in the section heading by striking “**advanced**” and inserting “**advance**”.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security of the House of Representatives.

#### SEC. 4. INTERNATIONAL POSTAL AGREEMENTS.

(a) EXISTING AGREEMENTS.—

(1) IN GENERAL.—In the event that any provision of this Act, or any amendment made by this Act, is determined to be in violation of obligations of the United States under any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, the Secretary of State should negotiate to amend the relevant provisions of the agreement so that the United States is no longer in violation of the agreement.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to permit delay in the implementation of this Act or any amendment made by this Act.

(b) FUTURE AGREEMENTS.—

(1) CONSULTATIONS.—Before entering into, on or after the date of the enactment of this Act, any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, that is related to the ability of the United States to secure the provision of advance electronic information by foreign postal operators, the Secretary of State should consult with the appropriate congressional committees (as defined in section 3(f)).

(2) EXPEDITED NEGOTIATION OF NEW AGREEMENT.—To the extent that any new postal treaty, convention, or other international agreement related to international postal services would improve the ability of the United States to secure the provision of advance electronic information by foreign postal operators as required by regulations prescribed under section 343(a)(3)(K) of the Trade Act of 2002, as amended by section



3(a)(1), the Secretary of State should expeditiously conclude such an agreement.

**SEC. 5. COST RECOUPMENT.**

(a) **IN GENERAL.**—The United States Postal Service shall, to the extent practicable and otherwise recoverable by law, ensure that all costs associated with complying with this Act and amendments made by this Act are charged directly to foreign shippers or foreign postal operators.

(b) **COSTS NOT CONSIDERED REVENUE.**—The recovery of costs under subsection (a) shall not be deemed revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code, or regulations prescribed under that chapter.

**SEC. 6. DEVELOPMENT OF TECHNOLOGY TO DETECT ILLICIT NARCOTICS.**

(a) **IN GENERAL.**—The Postmaster General and the Commissioner of U.S. Customs and Border Protection, in coordination with the heads of other agencies as appropriate, shall collaborate to identify and develop technology for the detection of illicit fentanyl, other synthetic opioids, and other narcotics and psychoactive substances entering the United States by mail.

(b) **OUTREACH TO PRIVATE SECTOR.**—The Postmaster General and the Commissioner shall conduct outreach to private sector entities to gather information regarding the current state of technology to identify areas for innovation relating to the detection of illicit fentanyl, other synthetic opioids, and other narcotics and psychoactive substances entering the United States.

**SEC. 7. CIVIL PENALTIES FOR POSTAL SHIPMENTS.**

Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended by adding at the end the following new subsection:

“(e) **CIVIL PENALTIES FOR POSTAL SHIPMENTS.**—

“(1) **CIVIL PENALTY.**—A civil penalty shall be imposed against the United States Postal Service if the Postal Service accepts a shipment in violation of section 343(a)(3)(K)(vii)(I) of the Trade Act of 2002.

“(2) **MODIFICATION OF CIVIL PENALTY.**—

“(A) **IN GENERAL.**—U.S. Customs and Border Protection shall reduce or dismiss a civil penalty imposed pursuant to paragraph (1) if U.S. Customs and Border Protection determines that the United States Postal Service—

“(i) has a low error rate in compliance with section 343(a)(3)(K) of the Trade Act of 2002;

“(ii) is cooperating with U.S. Customs and Border Protection with respect to the violation of section 343(a)(3)(K)(vii)(I) of the Trade Act of 2002; and

“(iii) has taken remedial action to prevent future violations of section 343(a)(3)(K)(vii)(I) of the Trade Act of 2002.

“(B) **WRITTEN NOTIFICATION.**—U.S. Customs and Border Protection shall issue a written notification to the Postal Service with respect to each exercise of the authority of subparagraph (A) to reduce or dismiss a civil penalty imposed pursuant to paragraph (1).

“(3) ONGOING LACK OF COMPLIANCE.—If U.S. Customs and Border Protection determines that the United States Postal Service—

“(A) has repeatedly committed violations of section 343(a)(3)(K)(vii)(I) of the Trade Act of 2002,

“(B) has failed to cooperate with U.S. Customs and Border Protection with respect to violations of section 343(a)(3)(K)(vii)(I) of the Trade Act of 2002, or

“(C) has an increasing error rate in compliance with section 343(a)(3)(K) of the Trade Act of 2002, civil penalties shall be imposed against the United States Postal Service until corrective action, satisfactory to U.S. Customs and Border Protection, is taken.”.

**SEC. 8. REPORT ON VIOLATIONS OF ARRIVAL, REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS AND FALSITY OR LACK OF MANIFEST.**

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall submit to the appropriate congressional committees an annual report that contains the information described in subsection (b) with respect to each violation of section 436 of the Tariff Act of 1930 (19 U.S.C. 1436), as amended by section 7, and section 584 of such Act (19 U.S.C. 1584) that occurred during the previous year.

(b) INFORMATION DESCRIBED.—The information described in this subsection is the following:

- (1) The name and address of the violator.
- (2) The specific violation that was committed.
- (3) The location or port of entry through which the items were transported.
- (4) An inventory of the items seized, including a description of the items and the quantity seized.
- (5) The location from which the items originated.
- (6) The entity responsible for the apprehension or seizure, organized by location or port of entry.
- (7) The amount of penalties assessed by U.S. Customs and Border Protection, organized by name of the violator and location or port of entry.
- (8) The amount of penalties that U.S. Customs and Border Protection could have levied, organized by name of the violator and location or port of entry.
- (9) The rationale for negotiating lower penalties, organized by name of the violator and location or port of entry.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

- (1) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (2) the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security of the House of Representatives.

**SEC. 9. EFFECTIVE DATE; REGULATIONS.**

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act (other than the amendments made by section 2) shall take effect on the date of the enactment of this Act.

(b) REGULATIONS.—Not later than one year after the date of the enactment of this Act, such regulations as are necessary to carry

out this Act and the amendments made by this Act shall be prescribed.

PART D—TEXT OF AMENDMENT TO H.R. 5788 CONSIDERED AS ADOPTED

Page 2, line 16, strike “clause (i)” and insert “clause (i)(I)”.

Page 7, line 24, strike “(vi)” and insert “(vi)(I)”.

Page 8, after line 5, insert the following:

(II) The Commissioner, in consultation with the Postmaster General, may determine to exclude a country from the requirement described in subclause (I) to transmit information for mail shipments described in clause (i) from the country if the Commissioner determines that the country—

(aa) does not have the capacity to collect and transmit such information;

(bb) represents a low risk for mail shipments that violate relevant United States laws and regulations; and

(cc) accounts for low volumes of mail shipments that can be effectively screened for compliance with relevant United States laws and regulations through an alternate means.

(III) The Commissioner shall, at a minimum on an annual basis, re-evaluate any determination made under subclause (II) to exclude a country from the requirement described in subclause (I). If, at any time, the Commissioner determines that a country no longer meets the requirements under subclause (II), the Commissioner may not further exclude the country from the requirement described in subclause (I).

(IV) The Commissioner shall, on an annual basis, submit to the appropriate congressional committees—

(aa) a list of countries with respect to which the Commissioner has made a determination under subclause (II) to exclude the countries from the requirement described in subclause (I); and

(bb) information used to support such determination with respect to such countries.

Page 8, line 14, strike “a shipment” and insert “shipments”.

Page 8, line 17, strike “shipment” and insert “shipments”.

Page 8, line 21, strike “shipment” and insert “shipments”.

Page 20, line 13, strike “and” and insert “or”.

Page 21, line 10, strike “or” and insert “and”.

Page 21, line 14, strike “shall” and insert “may”.