

114TH CONGRESS
1ST SESSION

S. 36

To address the continued threat posed by dangerous synthetic drugs by amending the Controlled Substances Act relating to controlled substance analogues.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2015

Mrs. FEINSTEIN (for herself, Mrs. SHAHEEN, Ms. AYOTTE, Mr. SCHUMER, Mr. BLUMENTHAL, Ms. KLOBUCHAR, Mrs. BOXER, Mr. PORTMAN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To address the continued threat posed by dangerous synthetic drugs by amending the Controlled Substances Act relating to controlled substance analogues.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Our Youth
5 from Dangerous Synthetic Drugs Act of 2015”.

6 **SEC. 2. ENFORCEMENT.**

7 (a) IN GENERAL.—The Controlled Substances Act
8 (21 U.S.C. 801 et seq.) is amended—

(1) in section 102(32), by striking subparagraph (A) and inserting the following:

“(A) Except as provided in subparagraph (C), the term ‘controlled substance analogue’ means—

“(i) a substance whose chemical structure is substantially similar to the chemical structure of a controlled substance in schedule I or II—

“(I) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

“(II) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

1 “(ii) a substance designated as a controlled
2 substance analogue by the Controlled Substance
3 Analogue Committee in accordance with section
4 201(i).”; and

5 (2) in section 201, by adding at the end the fol-
6 lowing:

7 “(i)(1) The Attorney General, in consultation with
8 the Secretary of Health and Human Services, shall estab-
9 lish an interagency committee, to be known as the Con-
10 trolled Substance Analogue Committee (referred to in this
11 subsection as the ‘Committee’).

12 “(2) The Committee shall be—

13 “(A) headed by the Administrator of the Drug
14 Enforcement Administration; and

15 “(B) comprised of scientific experts in the fields
16 of chemistry and pharmacology from—

17 “(i) the Drug Enforcement Administration;

18 “(ii) the National Institute on Drug Abuse;

19 “(iii) the Centers for Disease Control and
20 Prevention; and

21 “(iv) any other Federal agency determined
22 by the Attorney General, in consultation with
23 the Secretary of Health and Human Services,
24 to be appropriate.

1 “(3)(A) The Committee shall convene, on an as need-
2 ed basis, to establish and maintain a list of controlled sub-
3 stance analogues.

4 “(B) A substance may be designated as a controlled
5 substance analogue by the Committee under this sub-
6 section if the substance is determined by the Committee
7 to be similar to a schedule I or II controlled substance
8 in either its chemical structure or its predictive effect on
9 the body, in such a manner as to make it likely that the
10 substance will, or can be reasonably expected to have a
11 potential for abuse.

12 “(C) Evidence of human consumption by an indi-
13 vidual or the public at large is not necessary before a sub-
14 stance may be designated as a controlled substance ana-
15 logue under this subsection.

16 “(D) The Attorney General shall, through rule-
17 making, establish procedures of operation for the Com-
18 mittee.

19 “(4)(A) Not later than 30 days before each meeting
20 of the Committee, the Attorney General shall submit to
21 the Secretary of Health and Human Services a notice of
22 the meeting of the Committee, which shall include—

23 “(i) a list of the substances to be considered by
24 the Committee during the meeting for designation as
25 a controlled substance analogue; and

1 “(ii) a request for the Secretary of Health and
2 Human Services to make a determination of whether
3 an exemption or approval for each substance listed
4 under clause (i) is in effect under section 505 of the
5 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
6 355).

7 “(B) Not later than 30 days after the date on which
8 the Secretary of Health and Human Services receives no-
9 tice under subparagraph (A), the Secretary shall submit
10 to the Attorney General a written response to the request
11 described under subparagraph (A)(ii). The Committee
12 shall consider the response submitted by the Secretary of
13 Health and Human Services in determining whether to
14 designate a substance considered by the Committee at the
15 meeting as a controlled substance analogue.

16 “(5)(A) The Attorney General shall publish in the
17 Federal Register any designation made by the Committee
18 under this subsection.

19 “(B) The Administrator of the Drug Enforcement
20 Administration shall publish, on the website of the Drug
21 Enforcement Administration, a description of each des-
22 ignation made by the Committee under this subsection,
23 which shall include—

24 “(i) the chemical and common name of the con-
25 trolled substance analogue;

1 “(ii) the effective date of the determination, as
2 described in paragraph (6)(A); and

3 “(iii) any schedule I or II controlled substance
4 that the Committee has determined a substance is
5 an analogue of.

6 “(6) A designation made by the Committee under this
7 subsection shall take effect on the date that is 30 days
8 after the date on which the designation is published in
9 the Federal Register under paragraph (5)(A).

10 “(7) If a substance designated as a controlled sub-
11 stance analogue by the Committee under this section is
12 subsequently scheduled through a rulemaking proceeding
13 under subsection (a), (d), or (h), the substance shall be
14 automatically removed from the controlled substance ana-
15 logue list.

16 “(8) If a defendant challenges the designation of a
17 controlled substance analogue made by the Committee
18 under this subsection the issue shall be considered a ques-
19 tion of law.”.

20 (b) FUNDING.—Section 111(b)(2)(B) of Public Law
21 102–395 (21 U.S.C. 886a(2)(B)) is amended by inserting
22 “controlled substance analogues,” after “substances,”.

1 **SEC. 3. IMPORTATION OF CONTROLLED SUBSTANCE ANA-**
2 **LOGUES.**

3 Section 1002 of the Controlled Substances Import
4 and Export Act (21 U.S.C. 952) is amended—

5 (1) by redesignating subsections (c) through (e)
6 as subsections (d) through (f), respectively; and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) It shall be unlawful to import into the customs
10 territory of the United States from any place outside
11 thereof (but within the United States), or to import into
12 the United States from any place outside thereof, any con-
13 trolled substance analogue designated pursuant to section
14 201(i) of the Controlled Substances Act (21 U.S.C.
15 811(i)) unless the controlled substance analogue is im-
16 ported pursuant to such notification or declaration as the
17 Attorney General may by regulation prescribe.”.

18 **SEC. 4. DIRECTIVE TO SENTENCING COMMISSION.**

19 (a) IN GENERAL.—Pursuant to its authority under
20 section 994 of title 28, United States Code, the United
21 States Sentencing Commission shall review and, if appro-
22 priate, amend the Federal sentencing guidelines and policy
23 statements to ensure the guidelines and policy statements
24 provide adequate penalties for any offense involving the
25 unlawful manufacturing, importing, exporting, or traf-
26 ficking of controlled substance analogues under part D of

1 the Controlled Substances Act (21 U.S.C. 841 et seq.) or
2 part A of the Controlled Substances Import and Export
3 Act (21 U.S.C. 951 et seq.) and similar offenses, including
4 unlawful possession, possession with intent to commit any
5 of the foregoing offenses, and attempt and conspiracy to
6 commit any of the foregoing offenses.

7 (b) COMMISSION DUTIES.—In carrying out this sec-
8 tion, the Sentencing Commission shall—

9 (1) ensure that the sentences, guidelines, and
10 policy statements relating to offenders convicted of
11 these offenses are appropriately severe and reason-
12 ably consistent with other relevant directives and
13 other Federal sentencing guidelines and policy state-
14 ments;

15 (2) make any necessary conforming changes to
16 the Federal sentencing guidelines; and

17 (3) assure that the guidelines adequately meet
18 the purposes of sentencing as set forth in section
19 3553(a)(2) of title 18, United States Code.

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