

Calendar No. 471

115TH CONGRESS
2D SESSION**S. 2837**

To improve the systems for identifying the diversion of controlled substances.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2018

Ms. HASSAN (for herself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

JUNE 19, 2018

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To improve the systems for identifying the diversion of
controlled substances.

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 “Preventing Drug Di-
5 version Act of 2018”.

6 **SEC. 2. IMPROVEMENTS TO PREVENT DRUG DIVERSION.**

7 ~~(a)~~ **DEFINITION.**—

(1) IN GENERAL.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

“(57) The term ‘suspicious order’ includes—

“(A) an order of a controlled substance of unusual size;

“(B) an order of a controlled substance deviating substantially from a normal pattern;

“(C) orders of controlled substances of unusual frequency; and

“(D) an order or pattern of orders of a controlled substance that meet such other criteria as are established by the Attorney General by regulation.”.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations under paragraph (57)(D) of section 102 of the Controlled Substances Act, as added by paragraph (1) of this subsection.

(b) SUSPICIOUS ORDERS.—Part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) is amended by adding at the end the following:

“SEC. 312. SUSPICIOUS ORDERS.

“(a) REPORTING.—Each registrant shall—

1 “(1) design and operate a system to identify
2 suspicious orders for the registrant;

3 “(2) ensure that the system designed and oper-
4 ated under paragraph (1) by the registrant complies
5 with applicable Federal and State privacy laws; and

6 “(3) upon discovering a suspicious order or se-
7 ries of orders, notify the Administrator of the Drug
8 Enforcement Administration and the Special Agent
9 in Charge of the Division Office of the Drug En-
10 forcement Administration for the area in which the
11 registrant is located or conducts business.

12 “(b) SUSPICIOUS ORDER DATABASE.—Not later than
13 1 year after the date of enactment of this section, the At-
14 torney General shall establish a centralized database for
15 collecting reports of suspicious orders.

16 “(c) SHARING INFORMATION WITH THE STATES.—

17 “(1) IN GENERAL.—The Attorney General shall
18 make available to the point of contact for criminal
19 and civil enforcement efforts designated by the Gov-
20 ernor or chief executive officer of a State—

21 “(A) information regarding suspicious or-
22 ders in the State, including information in the
23 database established under subsection (b); and

24 “(B) information relating to the State in
25 the Automation of Reports and Consolidated

1 Orders System, or any subsequent automated
 2 system developed by the Drug Enforcement Ad-
 3 ministration to monitor selected controlled sub-
 4 stances.

5 “(2) TIMING.—The Attorney General shall pro-
 6 vide information in accordance with paragraph (1)
 7 within a reasonable period of time after obtaining
 8 the information.

9 “(3) COORDINATION.—In establishing the proc-
 10 ess for the provision of information under this sub-
 11 section, the Attorney General shall coordinate with
 12 States to ensure that the Attorney General has ac-
 13 cess to information, as permitted under State law,
 14 possessed by the States relating to prescriptions for
 15 controlled substances that will assist in enforcing
 16 Federal law.”.

17 (e) INCREASED CIVIL PENALTIES.—Section 402(e) of
 18 the Controlled Substances Act (21 U.S.C. 842(e)) is
 19 amended—

20 (1) in paragraph (1)(B), by striking “shall not
 21 exceed \$10,000.” and inserting the following: “shall
 22 not exceed—

23 “(i) except as provided in clause (ii), \$10,000;
 24 and

1 “(ii) if the violation relates to the reporting of
2 suspicious orders or failing to maintain effective con-
3 trols against diversion, \$100,000.”; and

4 (2) in paragraph (2)—

5 (A) in subparagraph (A), by inserting “or
6 (D)” after “subparagraph (B)”;

7 (B) by adding at the end the following:

8 “(D) In the case of a violation referred to in subpara-
9 graph (A) that was a violation of paragraph (5) or (10)
10 of subsection (a) that relates to the reporting of suspicious
11 orders or failing to maintain effective controls against di-
12 version, the criminal fine shall not exceed \$500,000.”.

13 (d) REPORTS TO CONGRESS.—

14 (1) DEFINITION.—In this subsection, the term
15 “suspicious orders” has the meaning given that term
16 in section 102 of the Controlled Substances Act, as
17 amended by this Act.

18 (2) ONE TIME REPORT.—Not later than 1 year
19 after the date of enactment of this Act, the Attorney
20 General shall submit to Congress a report on the re-
21 porting of suspicious orders, which shall include—

22 (A) a description of the centralized data-
23 base established under section 312 of the Con-
24 trolled Substances Act, as added by this sec-
25 tion, to collect reports of suspicious orders;

1 ~~(B)~~ a description of the system established
2 under section 312 of the Controlled Substances
3 Act, as added by this section, to share informa-
4 tion with States;

5 ~~(C)~~ information regarding how the Attor-
6 ney General used reports of suspicious orders
7 before the date of enactment of this Act and
8 after the date of enactment of this Act, includ-
9 ing how the Attorney General received the re-
10 ports and what actions were taken in response
11 to the reports; and

12 ~~(D)~~ descriptions of the data analyses con-
13 ducted on reports of suspicious orders and in-
14 formation in the Automation of Reports and
15 Consolidated Orders System of the Drug En-
16 forcement Administration to identify suspicious
17 activity.

18 ~~(3)~~ ~~ADDITIONAL REPORTS.~~—Not later than 1
19 year after the date of enactment of this Act, and an-
20 nually thereafter until the date that is 5 years after
21 the date of enactment of this Act, the Attorney Gen-
22 eral shall submit to Congress a report providing, for
23 the previous year—

24 ~~(A)~~ the number of reports of suspicious or-
25 ders;

1 ~~(B) a description of actions taken in re-~~
 2 ~~sponse to reports of suspicious orders; and~~

3 ~~(C) a description of the information shared~~
 4 ~~with States based on reports of suspicious or-~~
 5 ~~ders and information in the Automation of Re-~~
 6 ~~ports and Consolidated Orders System of the~~
 7 ~~Drug Enforcement Administration.~~

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Preventing Drug Diver-*
 10 *sion Act of 2018”.*

11 **SEC. 2. IMPROVEMENTS TO PREVENT DRUG DIVERSION.**

12 *(a) DEFINITION.—Section 102 of the Controlled Sub-*
 13 *stances Act (21 U.S.C. 802) is amended by adding at the*
 14 *end the following:*

15 *“(57) The term ‘suspicious order’ includes—*

16 *“(A) an order of a controlled substance of*
 17 *unusual size;*

18 *“(B) an order of a controlled substance de-*
 19 *viating substantially from a normal pattern;*
 20 *and*

21 *“(C) orders of controlled substances of un-*
 22 *usual frequency.”.*

23 *(b) SUSPICIOUS ORDERS.—Part C of the Controlled*
 24 *Substances Act (21 U.S.C. 821 et seq.) is amended by add-*
 25 *ing at the end the following:*

1 **“SEC. 312. SUSPICIOUS ORDERS.**

2 “(a) *REPORTING.*—Each registrant shall—

3 “(1) *design and operate a system to identify sus-*
4 *picious orders for the registrant;*

5 “(2) *ensure that the system designed and oper-*
6 *ated under paragraph (1) by the registrant complies*
7 *with applicable Federal and State privacy laws; and*

8 “(3) *upon discovering a suspicious order or se-*
9 *ries of orders, notify the Administrator of the Drug*
10 *Enforcement Administration and the Special Agent*
11 *in Charge of the Division Office of the Drug Enforce-*
12 *ment Administration for the area in which the reg-*
13 *istrant is located or conducts business.*

14 “(b) *SUSPICIOUS ORDER DATABASE.*—

15 “(1) *IN GENERAL.*—Not later than 1 year after
16 the date of enactment of this section, the Attorney
17 General shall establish a centralized database for col-
18 lecting reports of suspicious orders.

19 “(2) *SATISFACTION OF REPORTING REQUIRE-*
20 *MENTS.*—If a registrant reports a suspicious order to
21 the centralized database established under paragraph
22 (1), the registrant shall be considered to have com-
23 plied with the requirement under subsection (a)(3) to
24 notify the Administrator of the Drug Enforcement
25 Administration and the Special Agent in Charge of
26 the Division Office of the Drug Enforcement Adminis-

1 *tration for the area in which the registrant is located*
 2 *or conducts business.*

3 “(c) *SHARING INFORMATION WITH THE STATES.*—

4 “(1) *IN GENERAL.*—*The Attorney General shall*
 5 *prepare and make available information regarding*
 6 *suspicious orders in a State, including information*
 7 *in the database established under subsection (b)(1), to*
 8 *the point of contact for purposes of administrative,*
 9 *civil, and criminal oversight relating to the diversion*
 10 *of controlled substances for the State, as designated by*
 11 *the Governor or chief executive officer of the State.*

12 “(2) *TIMING.*—*The Attorney General shall pro-*
 13 *vide information in accordance with paragraph (1)*
 14 *within a reasonable period of time after obtaining the*
 15 *information.*

16 “(3) *COORDINATION.*—*In establishing the process*
 17 *for the provision of information under this subsection,*
 18 *the Attorney General shall coordinate with States to*
 19 *ensure that the Attorney General has access to infor-*
 20 *mation, as permitted under State law, possessed by*
 21 *the States relating to prescriptions for controlled sub-*
 22 *stances that will assist in enforcing Federal law.”.*

23 (c) *REPORTS TO CONGRESS.*—

24 (1) *DEFINITION.*—*In this subsection, the term*
 25 *“suspicious order” has the meaning given that term*

1 *in section 102 of the Controlled Substances Act, as*
2 *amended by this Act.*

3 (2) *ONE TIME REPORT.*—*Not later than 1 year*
4 *after the date of enactment of this Act, the Attorney*
5 *General shall submit to Congress a report on the re-*
6 *porting of suspicious orders, which shall include—*

7 (A) *a description of the centralized database*
8 *established under section 312 of the Controlled*
9 *Substances Act, as added by this section, to col-*
10 *lect reports of suspicious orders;*

11 (B) *a description of the system and reports*
12 *established under section 312 of the Controlled*
13 *Substances Act, as added by this section, to share*
14 *information with States;*

15 (C) *information regarding how the Attorney*
16 *General used reports of suspicious orders before*
17 *the date of enactment of this Act and after the*
18 *date of enactment of this Act, including how the*
19 *Attorney General received the reports and what*
20 *actions were taken in response to the reports;*
21 *and*

22 (D) *descriptions of the data analyses con-*
23 *ducted on reports of suspicious orders to identify,*
24 *analyze, and stop suspicious activity.*

1 (3) *ADDITIONAL REPORTS.*—*Not later than 1*
2 *year after the date of enactment of this Act, and an-*
3 *nually thereafter until the date that is 5 years after*
4 *the date of enactment of this Act, the Attorney Gen-*
5 *eral shall submit to Congress a report providing, for*
6 *the previous year—*

7 (A) *the number of reports of suspicious or-*
8 *ders;*

9 (B) *a summary of actions taken in response*
10 *to reports, in the aggregate, of suspicious orders;*
11 *and*

12 (C) *a description of the information shared*
13 *with States based on reports of suspicious orders.*

Calendar No. 471

115TH CONGRESS
2^D Session

S. 2837

A BILL

To improve the systems for identifying the
diversion of controlled substances.

JUNE 19, 2018

Reported with an amendment