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S. 2323

To require the screening of 100 percent of international mail and express cargo inbound into the United States from high-risk countries to detect and prevent the importation of illicit fentanyl and other illicit synthetic opioids, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2019

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require the screening of 100 percent of international mail and express cargo inbound into the United States from high-risk countries to detect and prevent the importation of illicit fentanyl and other illicit synthetic opioids, and for other purposes.

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 “Screening All
5 Fentanyl-Enhanced Mail Act of 2019” or the “SAFE Mail
6 Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The United States continues to experience
4 an epidemic of overdoses of fentanyl, heroin, and
5 prescription opioids that claimed more than 49,000
6 lives in 2017.

7 (2) Fentanyl is a synthetic opioid that de-
8 presses central nervous system and respiratory func-
9 tion, with euphoric effects that may be more power-
10 ful than the euphoric effects of heroin or morphine.

11 (3) The effect of fentanyl can be up to 50 times
12 stronger than the effect of heroin, and 50 to 100
13 times stronger than the effect of morphine.

14 (4) Although pharmaceutical fentanyl can be di-
15 verted for misuse, most fentanyl deaths are believed
16 to be linked to illicit fentanyl.

17 (5) Across the United States, the use of illicit
18 fentanyl and deaths related to that use are rising at
19 alarming rates.

20 (6) According to the Centers for Disease Con-
21 trol and Prevention, between 2016 and 2017, the
22 rate of drug overdose deaths involving synthetic
23 opioids—largely fentanyl—increased by 45 percent.

24 (7) In 2017, more than 28,000 deaths involving
25 synthetic opioids—largely fentanyl—occurred in the
26 United States, outnumbering deaths from any other

1 type of opioid. According to preliminary data from
2 the Centers for Disease Control and Prevention, that
3 figure increased to nearly 32,000 deaths in 2018.

4 (8) Depending on the route of administration
5 and other factors, as little as 2 milligrams of illicit
6 fentanyl (similar in size to a few grains of salt) can
7 be fatal.

8 (9) Fentanyl is the primary synthetic opioid
9 available in the United States.

10 (10) The internet has significantly increased
11 the availability of illicit fentanyl and other illicit syn-
12 thetic opioids in the United States. Those drugs are
13 widely advertised for sale, and are available for pur-
14 chase, on the open and dark web.

15 (11) Most illicit fentanyl trafficked into the
16 United States originates in the People's Republic of
17 China and is transported into the United States in
18 parcel packages directly from the People's Republic
19 of China or from the People's Republic of China
20 through Canada.

21 (12) Fentanyl arriving in the mail directly from
22 the People's Republic of China can have exception-
23 ally high purities—over 90 percent—posing a great
24 risk to the purchaser and user, and allowing it to be

1 adulterated many more times and turned into larger
2 amounts for sale and use.

3 (13) As the designated postal operator in the
4 United States, the United States Postal Service ac-
5 cepts and delivers inbound international mail on be-
6 half of designated postal operators around the world.

7 (14) Express consignment operators accept
8 items from customers in foreign countries and trans-
9 port and deliver those items in the United States.

10 (15) U.S. Customs and Border Protection in-
11 spects mail and express cargo arriving in the United
12 States and seizes illegal goods, including those that
13 may pose threats to health and safety, ecology, and
14 businesses in the United States.

15 (16) U.S. Customs and Border Protection is
16 able to screen only a tiny fraction of all inbound
17 international mail and express cargo into the United
18 States, contributing to the influx of illicit fentanyl
19 that is causing tens of thousands of deaths in the
20 United States annually.

21 **SEC. 3. SENSE OF CONGRESS.**

22 It is the sense of Congress that—

23 (1) in order to save potentially tens of thou-
24 sands of lives in the United States annually, the
25 Federal Government must make it a high priority to

1 stem the flow of illicit fentanyl into the United
2 States through increased detection and interception
3 of inbound international mail and express cargo; and

4 (2) the Federal Government must resolve to
5 achieve the automated screening of 100 percent of
6 international mail and express cargo inbound into
7 the United States from high-risk countries for illicit
8 fentanyl and other illicit synthetic opioids.

9 **SEC. 4. DEFINITIONS.**

10 In this Act:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on Homeland Security
15 of the House of Representatives; and

16 (B) the Committee on Commerce, Science,
17 and Transportation and the Committee on
18 Homeland Security and Governmental Affairs
19 of the Senate.

20 (2) EXPRESS CARGO.—The term “express
21 cargo” has the meaning given the term “cargo” in
22 section 128.1 of title 19, Code of Federal Regula-
23 tions (or any corresponding similar regulation or rul-
24 ing).

1 (3) HIGH-RISK COUNTRY.—The term “high-risk
2 country” means a country identified by the Sec-
3 retary, in consultation with the officials specified in
4 section 5(b), as a country that poses a high risk of
5 being the source of international mail and express
6 cargo inbound into the United States containing il-
7 licit fentanyl and other illicit synthetic opioids.

8 (4) ILLICIT FENTANYL.—The term “illicit
9 fentanyl” means illicitly manufactured fentanyl and
10 illicit versions of chemically similar compounds
11 known as fentanyl analogues.

12 (5) SECRETARY.—The term “Secretary” means
13 the Secretary of Homeland Security.

14 **SEC. 5. DEVELOPMENT OF TECHNOLOGY TO DETECT IL-**
15 **LICIT FENTANYL AND OTHER ILLICIT SYN-**
16 **THETIC OPIOIDS IN INTERNATIONAL MAIL**
17 **AND EXPRESS CARGO.**

18 (a) IN GENERAL.—Not later than 2 years after the
19 date of the enactment of this Act, the Secretary, in coordi-
20 nation with the officials specified in subsection (b), shall
21 carry out and complete a program of research and develop-
22 ment of technology that, when fully deployed, will auto-
23 mate the detection of illicit fentanyl and other illicit syn-
24 thetic opioids in 100 percent of international mail and ex-

1 press cargo inbound into the United States from high-risk
2 countries.

3 (b) OFFICIALS SPECIFIED.—The officials specified in
4 this subsection are the following:

5 (1) The Commissioner of U.S. Customs and
6 Border Protection.

7 (2) The Chief Postal Inspector for the United
8 States Postal Inspection Service.

9 (3) The Director of the Office of National Drug
10 Control Policy.

11 (4) The Administrator of the Drug Enforce-
12 ment Administration.

13 (5) The heads of such other government agen-
14 cies and private sector entities as the Secretary con-
15 siders appropriate.

16 (c) PROGRAM ELEMENTS.—To the extent the Sec-
17 retary considers appropriate, the program required by
18 subsection (a) may incorporate by reference, and rely on,
19 any and all aspects of the Opioid Detection Challenge con-
20 ducted by the Science and Technology Directorate of the
21 Department of Homeland Security, U.S. Customs and
22 Border Protection, the United States Postal Inspection
23 Service, and the Office of National Drug Control Policy,
24 including its findings and results.

1 **SEC. 6. 100 PERCENT SCREENING OF ILLICIT FENTANYL**
2 **AND OTHER ILLICIT SYNTHETIC OPIOIDS IN**
3 **INBOUND INTERNATIONAL MAIL AND EX-**
4 **PRESS CARGO FROM HIGH-RISK COUNTRIES.**

5 (a) IN GENERAL.—Not later than 5 years after the
6 date of the enactment of this Act, the Secretary shall im-
7 plement an automated system to screen 100 percent of
8 international mail and express cargo inbound into the
9 United States from high-risk countries to detect, and pre-
10 vent the importation into the United States of, illicit
11 fentanyl and other illicit synthetic opioids.

12 (b) REQUIREMENTS.—In developing the system re-
13 quired by subsection (a), the Secretary shall—

14 (1) develop an automated, nonintrusive method
15 of detecting illicit fentanyl and other illicit synthetic
16 opioids in international mail and express cargo in-
17 bound into the United States that does not unrea-
18 sonably delay delivery of such mail and cargo;

19 (2) approve the use of appropriate equipment,
20 technology, procedures, personnel, and methods for
21 conducting screening of such mail and cargo under
22 the system; and

23 (3) provide for the phased implementation of
24 the system so that—

25 (A) not later than 18 months after the
26 completion of the research and development

1 program required by section 5(a), 50 percent of
2 such mail and cargo shall be screened under the
3 system; and

4 (B) not later than 3 years after the com-
5 pletion of that program, 100 percent of such
6 mail and cargo shall be screened under the sys-
7 tem.

8 (c) REGULATIONS.—

9 (1) INTERIM FINAL RULE.—The Secretary may
10 issue an interim final rule as a temporary regulation
11 to implement this section without regard to the pro-
12 visions of chapter 5 of title 5, United States Code.

13 (2) FINAL RULE.—

14 (A) IN GENERAL.—If the Secretary issues
15 an interim final rule under paragraph (1), the
16 Secretary shall issue, not later than one year
17 after the effective date of the interim final rule,
18 a final rule as a permanent regulation to imple-
19 ment this section in accordance with the provi-
20 sions of chapter 5 of title 5, United States
21 Code.

22 (B) FAILURE TO ACT.—If the Secretary
23 does not issue a final rule in accordance with
24 subparagraph (A) on or before the last day of
25 the one-year period referred to in that subpara-

graph, the Secretary shall, not later than 10 days after such last day and every 30 days thereafter until the Secretary issues such a final rule, submit to the appropriate congressional committees a report—

(i) explaining why the final rule was not timely issued; and

(ii) providing an estimate of the earliest date on which the Secretary will be able to issue the final rule.

(C) SUPERCEDING OF INTERIM FINAL RULE.—The final rule issued in accordance with this paragraph shall supersede the interim final rule issued under paragraph (1).

(d) REPORT REQUIRED.—Not later than one year after the date on which the system required by subsection (a) is fully implemented, the Secretary shall submit to the appropriate congressional committees a report that describes the system.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

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