

116TH CONGRESS
2D SESSION

S. 3342

To amend the Controlled Substances Act to prohibit the deceptive sale of fentanyl, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2020

Mr. COTTON (for himself, Mrs. LOEFFLER, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to prohibit the deceptive sale of fentanyl, 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 “Zero Tolerance for De-
5 ceptive Fentanyl Trafficking Act”.

6 **SEC. 2. PROHIBITION OF THE DECEPTIVE SALE OF**
7 **FENTANYL.**

8 Section 401 of the Controlled Substances Act (21
9 U.S.C. 841) is amended by adding at the end the fol-
10 lowing:

1 “(i) DECEPTIVE SALE OF FENTANYL AND
2 FENTANYL-RELATED SUBSTANCES.—

3 “(1) OFFENSE.—It shall be unlawful for any
4 person to knowingly misrepresent or knowingly mar-
5 ket as another substance a mixture or substance
6 containing fentanyl, a fentanyl analogue, or a
7 fentanyl-related substance (as defined in subsection
8 (e)(2) of Schedule I in section 202(c)).

9 “(2) PENALTY.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), any person who violates
12 paragraph (1) shall be imprisoned for not less
13 than 20 years and fined under title 18, United
14 States Code.

15 “(B) ENHANCED PENALTIES.—

16 “(i) DEATH RESULTS.—In the case of
17 a violation of paragraph (1) in which death
18 results from the violation, or the person
19 commits the violation with the intent to
20 cause death, the person shall be punished
21 by death or by a sentence of imprisonment
22 for life and fined under title 18, United
23 States Code.

24 “(ii) PRIOR FELONY CONVICTION OR
25 UNLAWFUL PRESENCE IN THE UNITED

1 STATES.—A person who violates paragraph
2 (1) shall be sentenced to imprisonment for
3 life and fined under title 18, United States
4 Code, if the violation occurs—

5 “(I) after any other prior felony
6 conviction of the person has become
7 final; or

8 “(II) while the person is unlaw-
9 fully present in the United States.”.

10 **SEC. 3. FENTANYL-RELATED SUBSTANCES.**

11 Section 202(c) of the Controlled Substances Act (21
12 U.S.C. 812) is amended—

13 (1) by adding at the end of subsection (b) of
14 Schedule I the following:

15 “(23) Isobutyryl fentanyl.

16 “(24) Para-Methoxybutyrylfentanyl.

17 “(25) Valeryl fentanyl.

18 “(26) Cyclopentyl fentanyl.

19 “(27) Para-Chloroisobutyryl fentanyl.”; and

20 (2) by adding at the end of Schedule I the fol-
21 lowing:

22 “(e)(1) Unless specifically exempted or unless listed
23 in another schedule, any material, compound, mixture, or
24 preparation which contains any quantity of fentanyl-re-
25 lated substances, or which contains their salts, isomers,

1 and salts of isomers whenever the existence of such salts,
2 isomers, and salts of isomers is possible within the specific
3 chemical designation.

4 “(2) In paragraph (1), the term ‘fentanyl-related sub-
5 stances’ includes the following:

6 “(A) Any substance that is structurally related
7 to fentanyl by one or more of the following modifica-
8 tions:

9 “(i) By replacement of the phenyl portion
10 of the phenethyl group by any monocycle,
11 whether or not further substituted in or on the
12 monocycle.

13 “(ii) By substitution in or on the phenethyl
14 group with alkyl, alkenyl, alkoxy, hydroxy, halo,
15 haloalkyl, amino or nitro groups.

16 “(iii) By substitution in or on the piper-
17 idine ring with alkyl, alkenyl, alkoxy, ester,
18 ether, hydroxy, halo, haloalkyl, amino or nitro
19 groups.

20 “(iv) By replacement of the aniline ring
21 with any aromatic monocycle whether or not
22 further substituted in or on the aromatic mono-
23 cycle.

24 “(v) By replacement of the N-propionyl
25 group by another acyl group.

- 1 “(B) 4'-Methyl acetyl fentanyl.
- 2 “(C) Crotonyl fentanyl.
- 3 “(D) 2'-Fluoro ortho-fluorofentanyl.
- 4 “(E) Ortho-Methyl acetylfentanyl.
- 5 “(F) Thiofuranyl fentanyl.
- 6 “(G) Ortho-Fluorobutyryl fentanyl.
- 7 “(H) Ortho-Fluoroacryl fentanyl.
- 8 “(I) Beta-Methyl fentanyl.
- 9 “(J) Phenyl fentanyl.
- 10 “(K) Para-Methylfentanyl.
- 11 “(L) Beta'-Phenyl fentanyl.
- 12 “(M) Benzodioxole fentanyl.”.

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