

117TH CONGRESS
2D SESSION

S. 4984

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2022

Mr. COTTON (for himself, Mr. CORNYN, and Mr. HAWLEY) 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.—If a violation
17 of paragraph (1) results in death or is
18 committed with the intent to cause death,
19 the person shall be sentenced to death or
20 life imprisonment and fined under title 18,
21 United States Code.

22 “(ii) PRIOR FELONY CONVICTION OR
23 UNLAWFUL PRESENCE IN THE UNITED
24 STATES.—A person who violates paragraph
25 (1) shall be sentenced to life imprisonment

1 and fined under title 18, United States
2 Code, if the violation occurs—

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

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

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

9 Schedule I in section 202(c) of the Controlled Sub-
10 stances Act (21 U.S.C. 812) is amended—

11 (1) in subsection (b), by adding at the end the
12 following:

13 “(23) Isobutyryl fentanyl.

14 “(24) Para-Methoxybutyrylfentanyl.

15 “(25) Valeryl fentanyl.

16 “(26) Cyclopentyl fentanyl.

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

18 (2) by adding at the end the following:

19 “(e)(1) Unless specifically exempted or unless listed
20 in another schedule, any material, compound, mixture, or
21 preparation which contains any quantity of a fentanyl-re-
22 lated substance, or which contains the salts, isomers, and
23 salts of isomers of a fentanyl-related substance whenever
24 the existence of such salts, isomers, and salts of isomers
25 is possible within the specific chemical designation.

1 “(2) For purposes of paragraph (1), the term
2 ‘fentanyl-related substance’ includes the following:

3 “(A) Any substance that is structurally related
4 to fentanyl by one or more of the following modifica-
5 tions:

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

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

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

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

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

23 “(B) 4'-Methyl acetyl fentanyl.

24 “(C) Crotonyl fentanyl.

25 “(D) 2'-Fluoro ortho-fluorofentanyl.

- 1 “(E) Ortho-Methyl acetylfentanyl.
- 2 “(F) Thiofuranyl fentanyl.
- 3 “(G) Ortho-Fluorobutyryl fentanyl.
- 4 “(H) Ortho-Fluoroacryl fentanyl.
- 5 “(I) Beta-Methyl fentanyl.
- 6 “(J) Phenyl fentanyl.
- 7 “(K) Para-Methylfentanyl.
- 8 “(L) Beta’-Phenyl fentanyl.
- 9 “(M) Benzodioxole fentanyl.”.

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