

116TH CONGRESS
2D SESSION

S. 3201

To extend the temporary scheduling order for fentanyl-related substances,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2020

Mr. GRAHAM (for himself, Mrs. FEINSTEIN, Mr. DURBIN, Mr. GRASSLEY, Ms. HASSAN, Mr. CORNYN, and Mr. MENENDEZ) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To extend the temporary scheduling order for fentanyl-related substances, 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 “Temporary Reauthor-
5 ization and Study of the Emergency Scheduling of
6 Fentanyl Analogues Act”.

1 **SEC. 2. EXTENSION OF TEMPORARY ORDER FOR**
2 **FENTANYL-RELATED SUBSTANCES.**

3 Notwithstanding any other provision of law, section
4 1308.11(h)(30) of title 21, Code of Federal Regulations,
5 shall remain in effect until May 6, 2021.

6 **SEC. 3. STUDY AND REPORT ON IMPACTS OF CLASSWIDE**
7 **SCHEDULING.**

8 (a) **DEFINITION.**—In this section, the term
9 “fentanyl-related substance” has the meaning given the
10 term in section 1308.11(h)(30)(i) of title 21, Code of Fed-
11 eral Regulations.

12 (b) **GAO REPORT.**—The Comptroller General of the
13 United States shall—

14 (1) conduct a study of the classification of
15 fentanyl-related substances as schedule I controlled
16 substances under the Controlled Substances Act (21
17 U.S.C. 801 et seq.), research on fentanyl-related
18 substances, and the importation of fentanyl-related
19 substances into the United States; and

20 (2) not later than 1 year after the date of en-
21 actment of this Act, submit a report on the results
22 of the study conducted under paragraph (1) to—

23 (A) the Committee on the Judiciary of the
24 Senate;

25 (B) the Committee on Health, Education,
26 Labor, and Pensions of the Senate;

1 (C) the Caucus on International Narcotics
2 Control of the Senate;

3 (D) the Committee on the Judiciary of the
4 House of Representatives; and

5 (E) the Committee on Energy and Com-
6 merce of the House of Representatives.

7 (c) REQUIREMENTS.—The Comptroller General, in
8 conducting the study and developing the report required
9 under subsection (b), shall—

10 (1) evaluate class control of fentanyl-related
11 substances, including—

12 (A) the definition of the class of fentanyl-
13 related substances in section 1308.11(h)(30)(i)
14 of title 21, Code of Federal Regulations, includ-
15 ing the process by which the definition was for-
16 mulated;

17 (B) the potential for classifying fentanyl-
18 related substances with no, or low, abuse poten-
19 tial, or potential accepted medical use, as sched-
20 ule I controlled substances when scheduled as a
21 class; and

22 (C) any known classification of fentanyl-re-
23 lated substances with no, or low, abuse poten-
24 tial, or potential accepted medical use, as sched-
25 ule I controlled substances that has resulted

1 from the scheduling action of the Drug En-
2 forcement Administration that added paragraph
3 (h)(30) to section 1308.11 of title 21, Code of
4 Federal Regulations;

5 (2) review the impact or potential impact of
6 controls on fentanyl-related substances on public
7 health and safety, including on—

8 (A) diversion risks, overdose deaths, and
9 law enforcement encounters with fentanyl-re-
10 lated substances; and

11 (B) Federal law enforcement investigations
12 and prosecutions of offenses relating to
13 fentanyl-related substances;

14 (3) review the impact of international regu-
15 latory controls on fentanyl-related substances on the
16 supply of such substances to the United States, in-
17 cluding by the Government of the People's Republic
18 of China;

19 (4) review the impact or potential impact of
20 screening and other interdiction efforts at points of
21 entry into the United States on the importation of
22 fentanyl-related substances into the United States;

23 (5) recommend best practices for accurate,
24 swift, and permanent control of fentanyl-related sub-
25 stances, including—

1 (A) how to quickly remove from the sched-
2 ules under the Controlled Substances Act sub-
3 stances that are determined, upon discovery, to
4 have no abuse potential; and

5 (B) how to reschedule substances that are
6 determined, upon discovery, to have a low abuse
7 potential or potential accepted medical use;

8 (6) review the impact or potential impact of
9 fentanyl-related controls by class on scientific and
10 biomedical research; and

11 (7) evaluate the processes used to obtain or
12 modify Federal authorization to conduct research
13 with fentanyl-related substances, including by—

14 (A) identifying opportunities to reduce un-
15 necessary burdens on persons seeking to re-
16 search fentanyl-related substances;

17 (B) identifying opportunities to reduce any
18 redundancies in the responsibilities of Federal
19 agencies;

20 (C) identifying opportunities to reduce any
21 inefficiencies related to the processes used to
22 obtain or modify Federal authorization to con-
23 duct research with fentanyl-related substances;

1 (D) identifying opportunities to improve
2 the protocol review and approval process con-
3 ducted by Federal agencies; and

4 (E) evaluating the degree, if any, to which
5 establishing processes to obtain or modify a
6 Federal authorization to conduct research with
7 a fentanyl-related substance that are separate
8 from the applicable processes for other schedule
9 I controlled substances could exacerbate bur-
10 dens or lead to confusion among persons seek-
11 ing to research fentanyl-related substances or
12 other schedule I controlled substances.

13 (d) INPUT FROM CERTAIN FEDERAL AGENCIES.—In
14 conducting the study and developing the report under sub-
15 section (b), the Comptroller General shall consider the
16 views of the Department of Health and Human Services
17 and the Department of Justice.

18 (e) INFORMATION FROM FEDERAL AGENCIES.—
19 Each Federal department or agency shall, in accordance
20 with applicable procedures for the appropriate handling of
21 classified information, promptly provide reasonable access
22 to documents, statistical data, and any other information
23 that the Comptroller General determines is necessary to
24 conduct the study and develop the report required under
25 subsection (b).

1 (f) INPUT FROM CERTAIN NON-FEDERAL ENTI-
2 TIES.—In conducting the study and developing the report
3 under subsection (b), the Comptroller General shall con-
4 sider the views of experts from certain non-Federal enti-
5 ties, including experts from—

6 (1) the scientific and medical research commu-
7 nity;

8 (2) the State and local law enforcement commu-
9 nity; and

10 (3) the civil rights and criminal justice reform
11 communities.

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