

115TH CONGRESS  
1ST SESSION

# H. R. 2851

To amend the Controlled Substances Act to clarify how controlled substance analogues are to be regulated, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2017

Mr. KATKO (for himself, Miss RICE of New York, Mr. GOODLATTE, and Mr. GOWDY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Controlled Substances Act to clarify how controlled substance analogues are to be regulated, 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 “Stop the Importation  
5 and Trafficking of Synthetic Analogues Act of 2017” or  
6 the “SITSA Act”.

1 **SEC. 2. ESTABLISHMENT OF SCHEDULE A.**

2 Section 202 of the Controlled Substances Act (21  
3 U.S.C. 812) is amended—

4 (1) in subsection (a), by striking “five schedules  
5 of controlled substances, to be known as schedules I,  
6 II, III, IV, and V” and inserting “six schedules of  
7 controlled substances, to be known as schedules I,  
8 II, III, IV, V, and A”;

9 (2) in subsection (b), by adding at the end the  
10 following:

11 “(6) SCHEDULE A.—

12 “(A) IN GENERAL.—The drug or substance—

13 “(i) has—

14 “(I) a chemical structure that is sub-  
15 stantially similar to the chemical structure  
16 of a controlled substance in schedule I, II,  
17 III, IV, or V; and

18 “(II) an actual or predicted stimulant,  
19 depressant, or hallucinogenic effect on the  
20 central nervous system that is substantially  
21 similar to or greater than the stimulant,  
22 depressant, or hallucinogenic effect on the  
23 central nervous system of a controlled sub-  
24 stance in schedule I, II, III, IV, or V; and

25 “(ii) is not—

1           “(I) listed or otherwise included in  
2           any other schedule in this section or by  
3           regulation of the Attorney General; and

4           “(II) with respect to a particular per-  
5           son, subject to an exemption that is in ef-  
6           fect for investigational use, for that person,  
7           under section 505 of the Federal Food,  
8           Drug, and Cosmetic Act (21 U.S.C. 355)  
9           to the extent conduct with respect to such  
10          substance is pursuant to such exemption.

11          “(B) PREDICTED STIMULANT, DEPRESSANT, OR  
12          HALLUCINOGENIC EFFECT.—For purpose of this  
13          paragraph, a predicted stimulant, depressant, or hal-  
14          lucinogenic effect on the central nervous system may  
15          be based on—

16                 “(i) the chemical structure, structure activ-  
17                 ity relationships, binding receptor assays, or  
18                 other relevant scientific information about the  
19                 substance;

20                 “(ii)(I) the current or relative potential for  
21                 abuse of the substance; and

22                 “(II) the clandestine importation, manu-  
23                 facture, or distribution, or diversion from legiti-  
24                 mate channels, of the substance; or

1           “(iii) the capacity of the substance to  
2           cause a state of dependence, including physical  
3           or psychological dependence that is similar to or  
4           greater than that of a controlled substance in  
5           schedule I, II, III, IV, or V.”; and

6           (3) in subsection (c)—

7           (A) in the matter preceding schedule I, by  
8           striking “IV, and V” and inserting “IV, V, and  
9           A”; and

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

11                           “SCHEDULE A

12           “(a) Unless specifically excepted or unless listed in  
13           another schedule, any of the following substances, as  
14           scheduled in accordance with section 201(k)(5):

15                   “(1) 4-fluoroisobutyryl fentanyl.

16                   “(2) Valeryl fentanyl.

17                   “(3) 4-methoxybutyryl fentanyl.

18                   “(4) 4-methylphenethyl acetyl fentanyl.

19                   “(5) 3-furanyl fentanyl.

20                   “(6) Ortho-fluorofentanyl.

21                   “(7) Tetrahydrofuranyl fentanyl.

22                   “(8) Ocfentanil.

23                   “(9) 4-fluorobutyryl fentanyl.

24                   “(10) Methoxyacetyl fentanyl.

25                   “(11) Meta-fluorofentanyl.

26                   “(12) Isobutyryl fentanyl.

1 “(13) Acryl fentanyl.”.

2 **SEC. 3. TEMPORARY AND PERMANENT SCHEDULING OF**  
3 **SCHEDULE A SUBSTANCES.**

4 Section 201 of the Controlled Substances Act (21  
5 U.S.C. 811) is amended by adding at the end the fol-  
6 lowing:

7 “(k) TEMPORARY AND PERMANENT SCHEDULING OF  
8 SCHEDULE A SUBSTANCES.—

9 “(1) The Attorney General may issue a tem-  
10 porary order adding a drug or substance to schedule  
11 A if the Attorney General finds that—

12 “(A) the drug or other substance satisfies  
13 the criteria for being considered a schedule A  
14 substance; and

15 “(B) adding such drug or substance to  
16 schedule A will assist in preventing abuse or  
17 misuse of the drug or other substance.

18 “(2) A temporary scheduling order issued under  
19 paragraph (1) shall not take effect until 30 days  
20 after the date of the publication by the Attorney  
21 General of a notice in the Federal Register of the in-  
22 tention to issue such order and the grounds upon  
23 which such order is to be issued. The temporary  
24 scheduling order shall expire not later than 5 years  
25 after the date it becomes effective, except that the

1 Attorney General may, during the pendency of pro-  
2 ceedings under paragraph (5), extend the temporary  
3 scheduling order for up to 180 days.

4 “(3) A temporary scheduling order issued under  
5 paragraph (1) shall be vacated upon the issuance of  
6 a permanent order issued under paragraph (5) with  
7 regard to the same substance, or upon the subse-  
8 quent issuance of any scheduling order under this  
9 section.

10 “(4) A temporary scheduling order issued under  
11 paragraph (1) shall not be subject to judicial review.

12 “(5) The Attorney General may, by rule, issue  
13 a permanent order adding a drug or other substance  
14 to schedule A if such drug or substance satisfies the  
15 criteria for being considered a schedule A substance.  
16 Such rulemaking may be commenced simultaneously  
17 with the issuance of the temporary scheduling order  
18 issued under paragraph (1) with regard to the same  
19 substance.

20 “(6) Before initiating proceedings under para-  
21 graph (1) or (5), the Attorney General shall trans-  
22 mit notice of an order proposed to be issued to the  
23 Secretary of Health and Human Services. In issuing  
24 an order under paragraph (1) or (5), the Attorney  
25 General shall take into consideration any comments

1 submitted by the Secretary of Health and Human  
2 Services in response to a notice transmitted pursu-  
3 ant to this paragraph.”.

4 **SEC. 4. PENALTIES.**

5 (a) CONTROLLED SUBSTANCES ACT.—The Con-  
6 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-  
7 ed—

8 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)),  
9 by adding at the end the following:

10 “(F)(i) In the case of any controlled substance in  
11 schedule A, such person shall be sentenced to a term of  
12 imprisonment of not more than 10 years and if death or  
13 serious bodily injury results from the use of such sub-  
14 stance shall be sentenced to a term of imprisonment of  
15 not more than 15 years, a fine not to exceed the greater  
16 of that authorized in accordance with the provisions of  
17 title 18, United States Code, or \$500,000 if the defendant  
18 is an individual or \$2,500,000 if the defendant is other  
19 than an individual, or both.

20 “(ii) If any person commits such a violation after a  
21 prior conviction for a felony drug offense has become final,  
22 such person shall be sentenced to a term of imprisonment  
23 of not more than 20 years and if death or serious bodily  
24 injury results from the use of such substance shall be sen-  
25 tenced to a term of imprisonment of not more than 30

1 years, a fine not to exceed the greater of twice that author-  
2 ized in accordance with the provisions of title 18, United  
3 States Code, or \$1,000,000 if the defendant is an indi-  
4 vidual or \$5,000,000 if the defendant is other than an in-  
5 dividual, or both.

6 “(iii) Any sentence imposing a term of imprisonment  
7 under this subparagraph shall, in the absence of such a  
8 prior conviction, impose a term of supervised release of  
9 not less than 2 years in addition to such term of imprison-  
10 ment and shall, if there was such a prior conviction, im-  
11 pose a term of supervised release of not less than 4 years  
12 in addition to such term of imprisonment.”;

13 (2) in section 403(a) (21 U.S.C. 843(a))—

14 (A) in paragraph (8), by striking “or” at  
15 the end;

16 (B) in paragraph (9), by striking the pe-  
17 riod at the end and inserting “; or”; and

18 (C) by inserting after paragraph (9) the  
19 following:

20 “(10) to export a substance in violation of the  
21 controlled substance laws of the country to which  
22 the substance is exported.”; and

23 (3) in section 404 (21 U.S.C. 844), by inserting  
24 after subsection (a) the following:



1       “(b) A person shall not be subject to a criminal or  
2 civil penalty under this title or under any other Federal  
3 law solely for possession of a schedule A controlled sub-  
4 stance.”.

5       (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
6 ACT.—Section 1010(b) of the Controlled Substances Im-  
7 port and Export Act (21 U.S.C. 960(b)) is amended by  
8 adding at the end the following:

9       “(8) In the case of a violation under subsection (a)  
10 involving a controlled substance in schedule A, the person  
11 committing such violation shall be sentenced to a term of  
12 imprisonment of not more than 20 years and if death or  
13 serious bodily injury results from the use of such sub-  
14 stance shall be sentenced to a term of imprisonment of  
15 not less than 20 years and not more than life, a fine not  
16 to exceed the greater of that authorized in accordance with  
17 the provisions of title 18, United States Code, or  
18 \$1,000,000 if the defendant is an individual or \$5,000,000  
19 if the defendant is other than an individual, or both. If  
20 any person commits such a violation after a prior convic-  
21 tion for a felony drug offense has become final, such per-  
22 son shall be sentenced to a term of imprisonment of not  
23 more than 30 years and if death or serious bodily injury  
24 results from the use of such substance shall be sentenced  
25 to life imprisonment, a fine not to exceed the greater of

1 twice that authorized in accordance with the provisions of  
2 title 18, United States Code, or \$2,000,000 if the defend-  
3 ant is an individual or \$10,000,000 if the defendant is  
4 other than an individual, or both. Notwithstanding section  
5 3583 of title 18, United States Code, any sentence impos-  
6 ing a term of imprisonment under this paragraph shall,  
7 in the absence of such a prior conviction, impose a term  
8 of supervised release of not less than 3 years in addition  
9 to such term of imprisonment and shall, if there was such  
10 a prior conviction, impose a term of supervised release of  
11 not less than 6 years in addition to such term of imprison-  
12 ment. Notwithstanding the prior sentence, and notwith-  
13 standing any other provision of law, the court shall not  
14 place on probation or suspend the sentence of any person  
15 sentenced under the provisions of this paragraph which  
16 provide for a mandatory term of imprisonment if death  
17 or serious bodily injury results.”.

18 **SEC. 5. FALSE LABELING OF SCHEDULE A CONTROLLED**  
19 **SUBSTANCES.**

20 (a) IN GENERAL.—Section 305 of the Controlled  
21 Substances Act (21 U.S.C. 825) is amended by adding at  
22 the end the following:

23 “(f) FALSE LABELING OF SCHEDULE A CON-  
24 TROLLED SUBSTANCES.—

1           “(1) It shall be unlawful to import, export,  
2           manufacture, distribute, dispense, or possess with  
3           intent to manufacture, distribute, or dispense, a  
4           schedule A substance or product containing a sched-  
5           ule A substance, unless the substance or product  
6           bears a label clearly identifying a schedule A sub-  
7           stance or product containing a schedule A substance  
8           by the nomenclature used by the International  
9           Union of Pure and Applied Chemistry (IUPAC).

10           “(2)(A) A product described in subparagraph  
11           (B) is exempt from the International Union of Pure  
12           and Applied Chemistry nomenclature requirement of  
13           this subsection if such product is labeled in the man-  
14           ner required under the Federal Food, Drug, and  
15           Cosmetic Act.

16           “(B) A product is described in this subpara-  
17           graph if the product—

18                   “(i) is the subject of an approved applica-  
19                   tion as described in section 505(b) or (j) of the  
20                   Federal Food, Drug, and Cosmetic Act; or

21                   “(ii) is exempt from the provisions of sec-  
22                   tion 505 of such Act relating to new drugs be-  
23                   cause—

1                   “(I) it is intended solely for investiga-  
2                   tional use as described in section 505(i) of  
3                   such Act; and

4                   “(II) such product is being used ex-  
5                   clusively for purposes of a clinical trial  
6                   that is the subject of an effective investiga-  
7                   tional new drug application.”.

8           (b) PENALTIES.—Section 402 of the Controlled Sub-  
9           stances Act (21 U.S.C. 842) is amended—

10                   (1) in subsection (a)(16), by inserting “or sub-  
11                   section (f)” after “subsection (e)”; and

12                   (2) in subsection (c)(1)(D), by inserting “or a  
13                   schedule A substance” after “anabolic steroid”.

14   **SEC. 6. REGISTRATION REQUIREMENTS FOR HANDLERS OF**  
15                   **SCHEDULE A SUBSTANCES.**

16           (a) CONTROLLED SUBSTANCES ACT.—Section 303 of  
17           the Controlled Substances Act (21 U.S.C. 823) is amend-  
18           ed—

19                   (1) in subsection (f), in the undesignated mat-  
20                   ter following paragraph (5)—

21                           (A) by inserting “or A” after “schedule I”  
22                           each place it appears; and

23                           (B) by adding at the end the following: “A  
24                           separate registration for engaging in research  
25                           with a controlled substance in schedule A for

1 practitioners already registered under this part  
2 to engage in research with controlled substances  
3 in schedule I shall not be required. The Sec-  
4 retary shall determine the merits of the re-  
5 search protocol submitted by the practitioner  
6 registering to engage in research with a con-  
7 trolled substance in schedule A, and the Attor-  
8 ney General may deny or revoke the registra-  
9 tion only on a ground specified in section 304.”;  
10 and

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

12 “(k)(1) The Attorney General shall register an appli-  
13 cant to manufacture schedule A substances if—

14 “(A) the applicant demonstrates that the sched-  
15 ule A substances will be used for research, analyt-  
16 ical, or industrial purposes approved by the Attorney  
17 General; and

18 “(B) the Attorney General determines that such  
19 registration is consistent with the public interest and  
20 with the United States obligations under inter-  
21 national treaties, conventions, or protocols in effect  
22 on the date of enactment of this subsection.

23 “(2) In determining the public interest under para-  
24 graph (1)(B), the Attorney General shall consider—

1           “(A) maintenance of effective controls against  
2           diversion of particular controlled substances and any  
3           controlled substance in schedule A compounded  
4           therefrom into other than legitimate medical, sci-  
5           entific, research, or industrial channels, by limiting  
6           the importation and bulk manufacture of such con-  
7           trolled substances to a number of establishments  
8           which can produce an adequate and uninterrupted  
9           supply of these substances under adequately com-  
10          petitive conditions for legitimate medical, scientific,  
11          research, and industrial purposes;

12           “(B) compliance with applicable State and local  
13          law;

14           “(C) promotion of technical advances in the art  
15          of manufacturing substances described in subpara-  
16          graph (A) and the development of new substances;

17           “(D) prior conviction record of applicant under  
18          Federal and State laws relating to the manufacture,  
19          distribution, or dispensing of substances described in  
20          paragraph (A);

21           “(E) past experience in the manufacture of con-  
22          trolled substances, and the existence in the establish-  
23          ment of effective control against diversion; and

24           “(F) such other factors as may be relevant to  
25          and consistent with the public health and safety.

1       “(3) If an applicant is registered to manufacture con-  
2 trolled substances in schedule I or II under subsection (a),  
3 the applicant shall not be required to apply for a separate  
4 registration under this subsection.

5       “(1)(1) The Attorney General shall register an appli-  
6 cant to distribute schedule A substances—

7           “(A) if the applicant demonstrates that the  
8 schedule A substances will be used for research, ana-  
9 lytical, or industrial purposes approved by the Attor-  
10 ney General; and

11           “(B) unless the Attorney General determines  
12 that the issuance of such registration is inconsistent  
13 with the public interest.

14       “(2) In determining the public interest under para-  
15 graph (1)(B), the Attorney General shall consider—

16           “(A) maintenance of effective control against  
17 diversion of particular controlled substances into  
18 other than legitimate medical, scientific, and indus-  
19 trial channels;

20           “(B) compliance with applicable State and local  
21 law;

22           “(C) prior conviction record of applicant under  
23 Federal or State laws relating to the manufacture,  
24 distribution, or dispensing of substances described in  
25 subparagraph (A);

1           “(D) past experience in the distribution of con-  
2           trolled substances; and

3           “(E) such other factors as may be relevant to  
4           and consistent with the public health and safety.

5           “(3) If an applicant is registered to distribute a con-  
6           trolled substance in schedule I or II under subsection (b),  
7           the applicant shall not be required to apply for a separate  
8           registration under this subsection.

9           “(m)(1) Not later than 90 days after the date on  
10          which a substance is placed in schedule A, any practitioner  
11          who was engaged in research on the substance before the  
12          placement of the substance in schedule A and any manu-  
13          facturer or distributor who was handling the substance be-  
14          fore the placement of the substance in schedule A shall  
15          register with the Attorney General.

16          “(2)(A) Not later than 60 days after the date on  
17          which the Attorney General receives an application for  
18          registration to conduct research on a schedule A sub-  
19          stance, the Attorney General shall—

20                 “(i) grant, or initiate proceedings under section  
21                 304(c) to deny, the application; or

22                 “(ii) request supplemental information from the  
23                 applicant.

24          “(B) Not later than 30 days after the date on which  
25          the Attorney General receives supplemental information



1 requested under subparagraph (A)(ii) in connection with  
2 an application described in subparagraph (A), the Attor-  
3 ney General shall grant or deny the application.”.

4 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
5 ACT.—Section 1008 of the Controlled Substances Import  
6 and Export Act (21 U.S.C. 958) is amended by adding  
7 at the end the following:

8 “(j)(1) The Attorney General shall register an appli-  
9 cant to import or export a schedule A substance if—

10 “(A) the applicant demonstrates that the sched-  
11 ule A substances will be used for research, analyt-  
12 ical, or industrial purposes approved by the Attorney  
13 General; and

14 “(B) the Attorney General determines that such  
15 registration is consistent with the public interest and  
16 with the United States obligations under inter-  
17 national treaties, conventions, or protocols in effect  
18 on the date of enactment of this subsection.

19 “(2) In determining the public interest under para-  
20 graph (1)(B), the Attorney General shall consider the fac-  
21 tors described in subparagraphs (A) through (F) of sec-  
22 tion 303(k)(2).

23 “(3) If an applicant is registered to import or export  
24 a controlled substance in schedule I or II under subsection

1 (a), the applicant shall not be required to apply for a sepa-  
2 rate registration under this subsection.”.

3 **SEC. 7. ADDITIONAL CONFORMING AMENDMENTS.**

4 (a) CONTROLLED SUBSTANCES ACT.—The Con-  
5 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-  
6 ed—

7 (1) in section 303(c) (21 U.S.C. 823(c))—

8 (A) by striking “subsections (a) and (b)”  
9 and inserting “subsection (a), (b), (k), or (l)”;  
10 and

11 (B) by striking “schedule I or II” and in-  
12 serting “schedule I, II, or A”;

13 (2) in section 306 (21 U.S.C. 826)—

14 (A) in subsection (a), in the first sentence,  
15 by striking “schedules I and II” and inserting  
16 “schedules I, II, and A”;

17 (B) in subsection (b), in the second sen-  
18 tence, by striking “schedule I or II” and insert-  
19 ing “schedule I, II, or A”;

20 (C) in subsection (c), in the first sentence,  
21 by striking “schedules I and II” and inserting  
22 “schedules I, II, and A”;

23 (D) in subsection (d), in the first sentence,  
24 by striking “schedule I or II” and inserting  
25 “schedule I, II, or A”;

1 (E) in subsection (e), in the first sentence,  
2 by striking “schedule I or II” and inserting  
3 “schedule I, II, or A”; and

4 (F) in subsection (f), in the first sentence,  
5 by striking “schedules I and II” and inserting  
6 “schedules I, II, and A”;

7 (3) in section 308(a) (21 U.S.C. 828(a)), by  
8 striking “schedule I or II” and inserting “schedule  
9 I, II, or A”;

10 (4) in section 402(b) (21 U.S.C. 842(b)), in the  
11 matter preceding paragraph (1), by striking “sched-  
12 ule I or II” and inserting “schedule I, II, or A”;

13 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)),  
14 by striking “schedule I or II” and inserting “sched-  
15 ule I, II, or A”; and

16 (6) in section 511(f) (21 U.S.C. 881(f)), by  
17 striking “schedule I or II” each place it appears and  
18 inserting “schedule I, II, or A”.

19 (b) CONTROLLED SUBSTANCES IMPORT EXPORT  
20 ACT.—The Controlled Substances Import and Export Act  
21 (21 U.S.C. 951 et seq.) is amended—

22 (1) in section 1002(a) (21 U.S.C. 952(a))—

23 (A) in the matter preceding paragraph (1),  
24 by striking “schedule I or II” and inserting  
25 “schedule I, II, or A”; and

1 (B) in paragraph (2), by striking “sched-  
2 ule I or II” and inserting “schedule I, II, or  
3 A”;

4 (2) in section 1003 (21 U.S.C. 953)—

5 (A) in subsection (c), in the matter pre-  
6 ceding paragraph (1), by striking “schedule I or  
7 II” and inserting “schedule I, II, or A”; and

8 (B) in subsection (d), by striking “schedule  
9 I or II” and inserting “schedule I, II, or A”;

10 (3) in section 1004(1) (21 U.S.C. 954(1)), by  
11 striking “schedule I” and inserting “schedule I or  
12 A”;

13 (4) in section 1005 (21 U.S.C. 955), by striking  
14 “schedule I or II” and inserting “schedule I, II, or  
15 A”; and

16 (5) in section 1009(a) (21 U.S.C. 959(a)), by  
17 striking “schedule I or II” and inserting “schedule  
18 I, II, or A”.

19 **SEC. 8. CONTROLLED SUBSTANCE ANALOGUES.**

20 Section 102 of the Controlled Substances Act (21  
21 U.S.C. 802) is amended—

22 (1) in paragraph (6), by striking “or V” and in-  
23 serting “V, or A”;

24 (2) in paragraph (14)—

1 (A) by striking “schedule I(c) and” and in-  
2 serting “schedule I(c), schedule A, and”;

3 (B) by striking “schedule I(c),” and insert-  
4 ing “schedule I(c) and schedule A,”;

5 (3) in paragraph (32)(A), by striking “(32)(A)”  
6 and all that follows through clause (iii) and inserting  
7 the following:

8 “(32)(A) Except as provided in subparagraph (C),  
9 the term ‘controlled substance analogue’ means a sub-  
10 stance whose chemical structure is substantially similar to  
11 the chemical structure of a controlled substance in sched-  
12 ule I or II—

13 “(i) which has a stimulant, depressant, or hal-  
14 lucinogenic effect on the central nervous system that  
15 is substantially similar to or greater than the stimu-  
16 lant, depressant, or hallucinogenic effect on the cen-  
17 tral nervous system of a controlled substance in  
18 schedule I or II; or

19 “(ii) with respect to a particular person, which  
20 such person represents or intends to have a stimu-  
21 lant, depressant, or hallucinogenic effect on the cen-  
22 tral nervous system that is substantially similar to  
23 or greater than the stimulant, depressant, or hallu-  
24 cinogenic effect on the central nervous system of a  
25 controlled substance in schedule I or II.”.

1 **SEC. 9. AMENDMENT TO THE SENTENCING GUIDELINES.**

2 Section 2D1.1 of the Federal Sentencing Guidelines  
3 is amended, in Application Note 6 (Analogues and Con-  
4 trolled Substances Not Referenced in this Guideline) of  
5 the Commentary, by striking “In determining the most  
6 closely related controlled substance, the court shall, to the  
7 extent practicable, consider the following:” and inserting  
8 the following: “In determining the most closely related  
9 controlled substance and the applicable guideline or drug  
10 equivalence, the court shall—

11 “(A) if Attorney General has provided  
12 guidance on the appropriate sentencing equiva-  
13 lency or ratio to a controlled substance that is  
14 referenced in the guidelines through publication  
15 in the Federal Register (whether such guidance  
16 is included in or separate from any notice of  
17 proposed temporary or permanent scheduling of  
18 such substance under section 201 of the Con-  
19 trolled Substances Act (21 U.S.C. 811)), apply  
20 any such sentencing equivalency or ratio; and

21 “(B) in the absence of guidance with re-  
22 spect to a substance or group of substances as  
23 described in paragraph (A), use equivalencies  
24 for the following structural classes of sub-  
25 stances as if they were included on the Drug  
26 Equivalency Tables:

“Drug Class	Marihuana Equivalency of 1 gm of subject substance
Synthetic Opioids .....	1 gm = 10 kg
Synthetic Cannabinoids .....	1 gm = 167 gm
Synthetic Cathinones .....	1 gm = 380 gm
Tryptamine .....	1 gm = 80 gm
Phenethylamines .....	1 gm = 2.5 kg
Piperazines .....	1 gm = 2 kg
Benzofurans .....	1 gm = 500 gm
Arylcyclohexylamines (PCP-like sub- stances).	1 gm = 1 kg
Methylphenidate analogs .....	1 gm = 100 gm
Benzodiazepines .....	1 ‘unit’ (as defined in Note (F) to the Drug Quantity Table in 2D1.1) = 0.0625 gm

1        In the case of a substance for which paragraphs (A)  
2        and (B) above are not applicable, the court shall de-  
3        termine an equivalency or ratio by considering the  
4        following factors, to the extent practicable:”.

5        **SEC. 10. RULES OF CONSTRUCTION.**

6        Nothing in this Act, or the amendments made by this  
7        Act, may be construed to limit—

8                (1) the prosecution of offenses involving con-  
9        trolled substance analogues under the Controlled  
10        Substances Act (21 U.S.C. 801 et seq.); or

11                (2) the authority of the Attorney General to  
12        temporarily or permanently schedule, reschedule, or  
13        decontrol controlled substances under provisions of  
14        section 201 of the Controlled Substances Act (21  
15        U.S.C. 811) that are in effect on the day before the  
16        date of enactment of this Act.

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