

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Controlled Substances Act and the Controlled Substances Import and Export Act to modify the offenses relating to fentanyl, and for other purposes.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 2838

To amend the Controlled Substances Act to require the Drug Enforcement Administration to report certain information on distribution of opioids, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. KENNEDY (for himself, Mr. GRAHAM, and Mr. SASSE)

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . AMENDMENTS.**

3 (a) CONTROLLED SUBSTANCES ACT AMEND-
4 MENTS.—Section 401(b)(1) of the Controlled Substances
5 Act (21 U.S.C. 841(b)(1)) is amended—

6 (1) in subparagraph (A)(vi)—

7 (A) by striking “400” and inserting “20”;

8 (B) by striking “100” and inserting “5”;

9 and

1 (C) by inserting “scheduled or unsched-
2 uled” before “analogue of”; and

3 (2) in subparagraph (B)(vi)—

4 (A) by striking “40” and inserting “2”;

5 (B) by striking “10” and inserting “0.5”;

6 and

7 (C) by inserting “scheduled or unsched-
8 uled” before “analogue of”.

9 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
10 ACT AMENDMENTS.—Section 1010(b) of the Controlled
11 Substances Import and Export Act (21 U.S.C. 960(b))—

12 (1) in paragraph (1)(F)—

13 (A) by striking “400” and inserting “20”;

14 (B) by striking “100” and inserting “5”;

15 and

16 (C) by inserting “scheduled or unsched-
17 uled” before “analogue of”; and

18 (2) in paragraph (2)(F)—

19 (A) by striking “40” and inserting “2”;

20 (B) by striking “10” and inserting “0.5”;

21 and

22 (C) by inserting “scheduled or unsched-
23 uled” before “analogue of”.

24 (c) DIRECTIVE TO THE SENTENCING COMMISSION.—

1 (1) DEFINITION.—In this subsection, the term
2 “Commission” means the United States Sentencing
3 Commission.

4 (2) DIRECTIVE TO THE UNITED STATES SEN-
5 TENCING COMMISSION.—Pursuant to the authority
6 of the Commission under section 994(p) of title 28,
7 United States Code, and in accordance with this
8 subsection, the Commission shall review and amend,
9 if appropriate, the guidelines and policy statements
10 of the Commission applicable to a person convicted
11 of an offense under section 401 of the Controlled
12 Substances Act (21 U.S.C. 841) or section 1010 of
13 the Controlled Substances Import and Export Act
14 (21 U.S.C. 960) to ensure that the guidelines and
15 policy statements are consistent with the amend-
16 ments made by subsections (a) and (b).

17 (3) EMERGENCY AUTHORITY.—The Commission
18 shall—

19 (A) promulgate the guidelines, policy state-
20 ments, or amendments provided for in this sec-
21 tion as soon as practicable, and in any event
22 not later than 120 days after the date of enact-
23 ment of this Act, in accordance with the proce-
24 dure set forth in section 21(a) of the Sen-
25 tencing Act of 1987 (28 U.S.C. 994 note), as

1 though the authority under that Act had not
2 expired; and

3 (B) pursuant to the emergency authority
4 provided under paragraph (1), make such con-
5 forming amendments to the Federal sentencing
6 guidelines as the Commission determines nec-
7 essary to achieve consistency with other guide-
8 line provisions and applicable law.

9 (d) INTERDICTION OF FENTANYL, OTHER SYN-
10 THETIC OPIOIDS, AND OTHER NARCOTICS AND
11 PSYCHOACTIVE SUBSTANCES.—

12 (1) DEFINITIONS.—In this subsection—

13 (A) the term “chemical screening device”
14 means an immunoassay, narcotics field test kit,
15 infrared spectrophotometer, mass spectrometer,
16 nuclear magnetic resonance spectrometer,
17 Raman spectrophotometer, or other scientific
18 instrumentation able to collect data that can be
19 interpreted to determine the presence of
20 fentanyl, other synthetic opioids, and other nar-
21 cotics and psychoactive substances;

22 (B) the term “express consignment oper-
23 ator or carrier” has the meaning given the term
24 in section 128.1 of title 19, Code of Federal
25 Regulations (or any successor regulation); and

1 (C) the term “Postmaster General” means
2 the Postmaster General of the United States
3 Postal Service.

4 (2) INTERDICTION OF FENTANYL, OTHER SYN-
5 THETIC OPIOIDS, AND OTHER NARCOTICS AND
6 PSYCHOACTIVE SUBSTANCES.—

7 (A) CHEMICAL SCREENING DEVICES.—The
8 Postmaster General shall—

9 (i) increase the number of chemical
10 screening devices that are available to the
11 United States Postal Service; and

12 (ii) make additional chemical screen-
13 ing devices available to the United States
14 Postal Service as the Postmaster General
15 determines are necessary to interdict
16 fentanyl, other synthetic opioids, and other
17 narcotics and psychoactive substances that
18 are illegally imported into the United
19 States, including such substances that are
20 imported through the mail or by an ex-
21 press consignment operator or carrier.

22 (B) PERSONNEL TO INTERPRET DATA.—
23 The Postmaster General shall dedicate the ap-
24 propriate number of personnel of the United
25 States Postal Service, including scientists, so

1 that those personnel are available during all
2 operational hours to interpret data collected by
3 chemical screening devices.

4 (3) AUTHORIZATION OF APPROPRIATIONS.—

5 There are authorized to be appropriated to the Post-
6 master General \$9,000,000 to ensure that the
7 United States Postal Service has resources, includ-
8 ing chemical screening devices, personnel, and sci-
9 entists, available during all operational hours to pre-
10 vent, detect, and interdict the unlawful importation
11 of fentanyl, other synthetic opioids, and other nar-
12 cotics and psychoactive substances.