

**STOP THE IMPORTATION AND TRAFFICKING OF
SYNTHETIC ANALOGUES ACT OF 2017 (SITSA Act)**

[S. 1327](#)

Senators Chuck Grassley and Dianne Feinstein

- The existing schedules in the Controlled Substances Act are not nimble enough to respond to the threat posed by synthetic analogues of already-controlled substances, now often referred to as New Psychoactive Substances (NPS). These substances include synthetic cannabinoids (marijuana), cathinones, and synthetic analogues of fentanyl. Fentanyl is a Schedule II synthetic opioid originally developed as a painkiller and an anesthetic. However, its uncontrolled synthetic analogues have come to represent the deadly convergence of the synthetic drug problem and the opioid epidemic.
- Illegal drug traffickers and importers are able to circumvent the existing scheduling regime by altering a single atom or molecule of a currently controlled substance in a laboratory, thereby creating a substance that is lawful, but often highly dangerous, addictive and even deadly. These synthetic analogues are being trafficked into the United States, often from China or Mexico, and pose a grave threat to the health and safety of the American people.
- Even once a synthetic analogue is identified, there is often not enough information known about it to quickly place it on an existing schedule to protect the public. Drugs may be placed onto one of the current schedules administratively only after the Attorney General and the Secretary of Health and Human Services complete a scientific and medical “eight-factor” analysis of the substance’s potential for abuse and accepted medical use. The Attorney General can also temporarily schedule a substance to avoid an imminent hazard to public safety, but only after an analysis of three of the eight factors.
- In addition, while it is possible under current law to prosecute traffickers of uncontrolled synthetic analogues under the Analogue Enforcement Act, 21 U.S.C. § 813, this tool is also often inadequate to address the problem. That statute requires the government to re-prove that a substance meets the legal definition of an analogue in each individual case, potentially resulting in inconsistent outcomes for the same substance. It also requires the government to demonstrate that the substance was intended for human consumption, which can provide defendants a loophole to evade responsibility. Finally, that approach does not provide the public with notice that a specific substance has been controlled.
- Our legislation creates a new schedule – Schedule A – to address the problem of synthetic analogues of already-controlled substances. A substance may be placed on Schedule A if it has a chemical structure that is substantially similar to an existing controlled substance in Schedules I through V, and an actual or predicted physiological effect on the human body equal to or greater than an existing controlled substance in Schedules I through V. The bill also adds 13 synthetic analogues of fentanyl to schedule A immediately upon enactment.
- Schedule A will permit more rapid control of these substances that threaten the public health as they are identified, and will provide additional criminal and civil tools for law enforcement to stop their trafficking and importation into the United States.
- At the same time, the bill strikes a balance by assigning Schedule III (as opposed to I or II) criminal penalties for manufacturing or distributing Schedule A substances, and it contains no new mandatory minimum sentences. Moreover, it expressly does not criminalize the simple possession of Schedule A substances. The bill also includes provisions to ensure that legitimate research on substances placed on Schedule A can still be undertaken.