

115TH CONGRESS
2D SESSION

S. 2837

To improve the systems for identifying the diversion of controlled substances.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2018

Ms. HASSAN introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To improve the systems for identifying the diversion of
controlled substances.

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 “Preventing Drug Di-
5 version Act of 2018”.

6 **SEC. 2. IMPROVEMENTS TO PREVENT DRUG DIVERSION.**

7 (a) DEFINITION.—

8 (1) IN GENERAL.—Section 102 of the Con-
9 trolled Substances Act (21 U.S.C. 802) is amended
10 by adding at the end the following:

11 “(57) The term ‘suspicious order’ includes—

1 “(A) an order of a controlled substance of
2 unusual size;

3 “(B) an order of a controlled substance de-
4 viating substantially from a normal pattern;

5 “(C) orders of controlled substances of un-
6 usual frequency; and

7 “(D) an order or pattern of orders of a
8 controlled substance that meet such other cri-
9 teria as are established by the Attorney General
10 by regulation.”.

11 (2) REGULATIONS.—Not later than 1 year after
12 the date of enactment of this Act, the Attorney Gen-
13 eral shall promulgate regulations under paragraph
14 (57)(D) of section 102 of the Controlled Substances
15 Act, as added by paragraph (1) of this subsection.

16 (b) SUSPICIOUS ORDERS.—Part C of the Controlled
17 Substances Act (21 U.S.C. 821 et seq.) is amended by
18 adding at the end the following:

19 **“SEC. 312. SUSPICIOUS ORDERS.**

20 “(a) REPORTING.—Each registrant shall—

21 “(1) design and operate a system to identify
22 suspicious orders for the registrant;

23 “(2) ensure that the system designed and oper-
24 ated under paragraph (1) by the registrant complies
25 with applicable Federal and State privacy laws; and

1 “(3) upon discovering a suspicious order or se-
2 ries of orders, notify the Administrator of the Drug
3 Enforcement Administration and the Special Agent
4 in Charge of the Division Office of the Drug En-
5 forcement Administration for the area in which the
6 registrant is located or conducts business.

7 “(b) SUSPICIOUS ORDER DATABASE.—Not later than
8 1 year after the date of enactment of this section, the At-
9 torney General shall establish a centralized database for
10 collecting reports of suspicious orders.

11 “(c) SHARING INFORMATION WITH THE STATES.—

12 “(1) IN GENERAL.—The Attorney General shall
13 make available to the point of contact for criminal
14 and civil enforcement efforts designated by the Gov-
15 ernor or chief executive officer of a State—

16 “(A) information regarding suspicious or-
17 ders in the State, including information in the
18 database established under subsection (b); and

19 “(B) information relating to the State in
20 the Automation of Reports and Consolidated
21 Orders System, or any subsequent automated
22 system developed by the Drug Enforcement Ad-
23 ministration to monitor selected controlled sub-
24 stances.

1 “(2) TIMING.—The Attorney General shall pro-
 2 vide information in accordance with paragraph (1)
 3 within a reasonable period of time after obtaining
 4 the information.

5 “(3) COORDINATION.—In establishing the proc-
 6 ess for the provision of information under this sub-
 7 section, the Attorney General shall coordinate with
 8 States to ensure that the Attorney General has ac-
 9 cess to information, as permitted under State law,
 10 possessed by the States relating to prescriptions for
 11 controlled substances that will assist in enforcing
 12 Federal law.”.

13 (c) INCREASED CIVIL PENALTIES.—Section 402(c) of
 14 the Controlled Substances Act (21 U.S.C. 842(c)) is
 15 amended—

16 (1) in paragraph (1)(B), by striking “shall not
 17 exceed \$10,000.” and inserting the following: “shall
 18 not exceed—

19 “(i) except as provided in clause (ii), \$10,000;
 20 and

21 “(ii) if the violation relates to the reporting of
 22 suspicious orders or failing to maintain effective con-
 23 trols against diversion, \$100,000.”; and

24 (2) in paragraph (2)—

1 (A) in subparagraph (A), by inserting “or
2 (D)” after “subparagraph (B)”; and

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

4 “(D) In the case of a violation referred to in subpara-
5 graph (A) that was a violation of paragraph (5) or (10)
6 of subsection (a) that relates to the reporting of suspicious
7 orders or failing to maintain effective controls against di-
8 version, the criminal fine shall not exceed \$500,000.”.

9 (d) REPORTS TO CONGRESS.—

10 (1) DEFINITION.—In this subsection, the term
11 “suspicious orders” has the meaning given that term
12 in section 102 of the Controlled Substances Act, as
13 amended by this Act.

14 (2) ONE TIME REPORT.—Not later than 1 year
15 after the date of enactment of this Act, the Attorney
16 General shall submit to Congress a report on the re-
17 porting of suspicious orders, which shall include—

18 (A) a description of the centralized data-
19 base established under section 312 of the Con-
20 trolled Substances Act, as added by this sec-
21 tion, to collect reports of suspicious orders;

22 (B) a description of the system established
23 under section 312 of the Controlled Substances
24 Act, as added by this section, to share informa-
25 tion with States;

1 (C) information regarding how the Attor-
2 ney General used reports of suspicious orders
3 before the date of enactment of this Act and
4 after the date of enactment of this Act, includ-
5 ing how the Attorney General received the re-
6 ports and what actions were taken in response
7 to the reports; and

8 (D) descriptions of the data analyses con-
9 ducted on reports of suspicious orders and in-
10 formation in the Automation of Reports and
11 Consolidated Orders System of the Drug En-
12 forcement Administration to identify suspicious
13 activity.

14 (3) ADDITIONAL REPORTS.—Not later than 1
15 year after the date of enactment of this Act, and an-
16 nually thereafter until the date that is 5 years after
17 the date of enactment of this Act, the Attorney Gen-
18 eral shall submit to Congress a report providing, for
19 the previous year—

20 (A) the number of reports of suspicious or-
21 ders;

22 (B) a description of actions taken in re-
23 sponse to reports of suspicious orders; and

24 (C) a description of the information shared
25 with States based on reports of suspicious or-

- 1 ders and information in the Automation of Re-
- 2 ports and Consolidated Orders System of the
- 3 Drug Enforcement Administration.

