

116TH CONGRESS
1ST SESSION

H. R. 2226

To impose sanctions with respect to foreign traffickers of illicit opioids,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Mr. BUCHANAN (for himself and Mr. MOULTON) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services, Oversight and Reform, the Judiciary, Intelligence (Permanent Select), Armed Services, and Ways and Means, 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

A BILL

To impose sanctions with respect to foreign traffickers of
illicit opioids, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fentanyl Sanctions Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

Sec. 3. Sense of Congress.

Sec. 4. Definitions.

TITLE I—SANCTIONS WITH RESPECT TO FOREIGN OPIOID
TRAFFICKERS

Sec. 101. Identification of foreign opioid traffickers.

Sec. 102. Sense of Congress and reporting on international opioid control regime.

Sec. 103. Imposition of sanctions.

Sec. 104. Description of sanctions.

Sec. 105. Waivers.

Sec. 106. Procedures for judicial review of classified information.

Sec. 107. Briefings on implementation.

Sec. 108. Exception relating to importation of goods.

TITLE II—COMMISSION ON COMBATING SYNTHETIC OPIOID
TRAFFICKING

Sec. 201. Commission on combating synthetic opioid trafficking.

TITLE III—OTHER MATTERS

Sec. 301. Director of National Intelligence program on use of intelligence resources in efforts to sanction foreign opioid traffickers.

Sec. 302. Department of Defense funding.

Sec. 303. Department of State funding.

Sec. 304. Department of the Treasury funding.

Sec. 305. Appropriate committees of Congress defined.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) The Centers for Disease Control and Pre-
4 vention estimate that from June 2017 through June
5 2018 more than 48,000 people in the United States
6 died from an opioid overdose, with synthetic opioids
7 (excluding methadone), contributing to a record
8 31,500 overdose deaths. While drug overdose deaths
9 from methadone, semi-synthetic opioids, and heroin
10 have decreased in recent months, overdose deaths
11 from synthetic opioids have continued to increase.

1 (2) The objective of preventing the proliferation
2 of synthetic opioids through existing multilateral and
3 bilateral initiatives requires additional efforts to
4 deny illicit actors the financial means to sustain
5 their markets and distribution networks.

6 (3) The People’s Republic of China is the
7 world’s largest producer of illicit fentanyl, fentanyl
8 analogues, and their immediate precursors. From
9 the People’s Republic of China, those substances are
10 shipped primarily through express consignment car-
11 riers or international mail directly to the United
12 States, or, alternatively, shipped directly to
13 transnational criminal organizations in Mexico, Can-
14 ada, and the Caribbean.

15 (4) In 2015, Mexican heroin accounted for 93
16 percent of the total weight of heroin seized in the
17 United States, transported to the United States by
18 transnational criminal organizations that maintain
19 territorial influence over large regions in Mexico and
20 remain the greatest criminal drug threat to the
21 United States.

22 (5) The United States and the People’s Repub-
23 lic of China, Mexico, and Canada have made impor-
24 tant strides in combating the illicit flow of opioids

1 through bilateral efforts of their respective law en-
2 forcement agencies.

3 (6) Insufficient regulation of synthetic opioid
4 production and export and insufficient law enforce-
5 ment efforts to combat opioid trafficking in the Peo-
6 ple’s Republic of China and Mexico continue to con-
7 tribute to a flood of opioids into the United States.

8 (7) While the Department of the Treasury used
9 the Foreign Narcotics Kingpin Designation Act (21
10 U.S.C. 1901 et seq.) to sanction the first synthetic
11 opioid trafficking entity in April 2018, precision eco-
12 nomic and financial sanctions policy tools are needed
13 to address the flow of synthetic opioids.

14 **SEC. 3. SENSE OF CONGRESS.**

15 It is the sense of Congress that—

16 (1) the United States should apply economic
17 and other financial sanctions to foreign traffickers of
18 illicit opioids to protect the national security, foreign
19 policy, and economy of the United States; and

20 (2) it is imperative that the People’s Republic
21 of China follow through on the commitments it made
22 to the United States on December 6, 2018, through
23 the Group of Twenty—

1 (A) to schedule the entire category of
2 fentanyl-type substances as controlled sub-
3 stances; and

4 (B) to change its national and provincial
5 laws and increase provincial law enforcement ef-
6 forts to prosecute traffickers of fentanyl sub-
7 stances.

8 **SEC. 4. DEFINITIONS.**

9 In this Act:

10 (1) ALIEN; NATIONAL; NATIONAL OF THE
11 UNITED STATES.—The terms “alien”, “national”,
12 and “national of the United States” have the mean-
13 ings given those terms in section 101 of the Immi-
14 gration and Nationality Act (8 U.S.C. 1101).

15 (2) APPROPRIATE CONGRESSIONAL COMMIT-
16 TEES AND LEADERSHIP.—The term “appropriate
17 congressional committees and leadership” means—

18 (A) the Committee on Armed Services, the
19 Committee on Banking, Housing, and Urban
20 Affairs, the Committee on Foreign Relations,
21 the Committee on Homeland Security and Gov-
22 ernmental Affairs, the Committee on the Judi-
23 ciary, the Select Committee on Intelligence, and
24 the majority leader and the minority leader of
25 the Senate; and

1 (B) the Committee on Armed Services, the
2 Committee on Financial Services, the Com-
3 mittee on Foreign Affairs, the Committee on
4 Homeland Security, the Committee on the Judi-
5 ciary, the Permanent Select Committee on In-
6 telligence, and the Speaker and the minority
7 leader of the House of Representatives.

8 (3) CONTROLLED SUBSTANCE; LISTED CHEM-
9 ICAL.—The terms “controlled substance”, “listed
10 chemical”, “narcotic drug”, and “opioid” have the
11 meanings given those terms in section 102 of the
12 Controlled Substances Act (21 U.S.C. 802).

13 (4) ENTITY.—The term “entity” means a part-
14 nership, joint venture, association, corporation, orga-
15 nization, network, group, or subgroup, or any form
16 of business collaboration.

17 (5) FOREIGN OPIOID TRAFFICKER.—The term
18 “foreign opioid trafficker” means any foreign person
19 that the President determines plays a significant
20 role in opioid trafficking.

21 (6) FOREIGN PERSON.—The term “foreign per-
22 son”—

23 (A) means—

24 (i) any citizen or national of a foreign
25 country; or

1 (ii) any entity not organized under the
2 laws of the United States or a jurisdiction
3 within the United States; and

4 (B) does not include the government of a
5 foreign country.

6 (7) KNOWINGLY.—The term “knowingly”, with
7 respect to conduct, a circumstance, or a result,
8 means that a person has actual knowledge, or should
9 have known, of the conduct, the circumstance, or the
10 result.

11 (8) OPIOID TRAFFICKING.—The term “opioid
12 trafficking” means any illicit activity—

13 (A) to cultivate, produce, manufacture, dis-
14 tribute, sell, or knowingly finance or transport
15 illicit opioids, controlled substances that are
16 opioids, listed chemicals that are opioids, or ac-
17 tive pharmaceutical ingredients or chemicals
18 that are used in the production of controlled
19 substances that are opioids;

20 (B) to attempt to carry out an activity de-
21 scribed in subparagraph (A); or

22 (C) to assist, abet, conspire, or collude
23 with other persons to carry out such an activity.

24 (9) PERSON.—The term “person” means an in-
25 dividual or entity.

1 (10) UNITED STATES PERSON.—The term
2 “United States person” means—

3 (A) any citizen or national of the United
4 States;

5 (B) any alien lawfully admitted for perma-
6 nent residence in the United States;

7 (C) any entity organized under the laws of
8 the United States or any jurisdiction within the
9 United States (including a foreign branch of
10 such an entity); or

11 (D) any person located in the United
12 States.

13 **TITLE I—SANCTIONS WITH RE-**
14 **SPECT TO FOREIGN OPIOID**
15 **TRAFFICKERS**

16 **SEC. 101. IDENTIFICATION OF FOREIGN OPIOID TRAF-**
17 **FICKERS.**

18 (a) PUBLIC REPORT.—

19 (1) IN GENERAL.—The President shall submit
20 to the appropriate congressional committees and
21 leadership, in accordance with subsection (c), a re-
22 port—

23 (A) identifying the foreign persons that the
24 President determines are foreign opioid traf-
25 fickers;

1 (B) detailing progress the President has
2 made in implementing this title; and

3 (C) providing an update on cooperative ef-
4 forts with the Governments of Mexico and the
5 People's Republic of China with respect to com-
6 bating foreign opioid traffickers.

7 (2) IDENTIFICATION OF ADDITIONAL PER-
8 SONS.—If, at any time after submitting a report re-
9 quired by paragraph (1) and before the submission
10 of the next such report, the President determines
11 that a foreign person not identified in the report is
12 a foreign opioid trafficker, the President shall sub-
13 mit to the appropriate congressional committees and
14 leadership an additional report containing the infor-
15 mation required by paragraph (1) with respect to
16 the foreign person.

17 (3) EXCLUSION.—The President shall not be
18 required to include in a report under paragraph (1)
19 or (2) any persons with respect to which the United
20 States has imposed sanctions before the date of the
21 report under this title or any other provision of law
22 with respect to opioid trafficking.

23 (4) FORM OF REPORT.—

24 (A) IN GENERAL.—Each report required
25 by paragraph (1) or (2) shall be submitted in

1 unclassified form but may include a classified
2 annex.

3 (B) AVAILABILITY TO PUBLIC.—The un-
4 classified portion of a report required by para-
5 graph (1) or (2) shall be made available to the
6 public.

7 (b) CLASSIFIED REPORT.—

8 (1) IN GENERAL.—The President shall submit
9 to the appropriate congressional committees and
10 leadership, in accordance with subsection (c), a re-
11 port, in classified form—

12 (A) describing in detail the status of sanc-
13 tions imposed under this title, including the
14 personnel and resources directed toward the im-
15 position of such sanctions during the preceding
16 fiscal year;

17 (B) providing background information with
18 respect to persons newly identified as foreign
19 opioid traffickers and their illicit activities;

20 (C) describing actions the President in-
21 tends to undertake or has undertaken to imple-
22 ment this title; and

23 (D) providing a strategy for identifying ad-
24 ditional foreign opioid traffickers.

1 (2) EFFECT ON OTHER REPORTING REQUIRE-
2 MENTS.—The report required by paragraph (1) is in
3 addition to the obligations of the President to keep
4 Congress fully and currently informed pursuant to
5 the provisions of the National Security Act of 1947
6 (50 U.S.C. 3001 et seq.).

7 (c) SUBMISSION OF REPORTS.—Not later than 180
8 days after the date of the enactment of this Act, and annu-
9 ally thereafter until the date that is 5 years after such
10 date of enactment, the President shall submit the reports
11 required by subsections (a) and (b) to the appropriate con-
12 gressional committees and leadership.

13 (d) EXCLUSION OF CERTAIN INFORMATION.—

14 (1) INTELLIGENCE.—Notwithstanding any
15 other provision of this section, a report required by
16 subsection (a) or (b) shall not disclose the identity
17 of any person if the Director of National Intelligence
18 determines that such disclosure could compromise an
19 intelligence operation, activity, source, or method of
20 the United States.

21 (2) LAW ENFORCEMENT.—Notwithstanding any
22 other provision of this section, a report required by
23 subsection (a) or (b) shall not disclose the identity
24 of any person if the Attorney General, in coordina-
25 tion, as appropriate, with the Director of the Fed-

1 eral Bureau of Investigation, the Administrator of
2 the Drug Enforcement Administration, the head of
3 any other appropriate Federal law enforcement
4 agency, and the Secretary of the Treasury, deter-
5 mines that such disclosure could reasonably be ex-
6 pected—

7 (A) to compromise the identity of a con-
8 fidential source, including a State, local, or for-
9 eign agency or authority or any private institu-
10 tion that furnished information on a confiden-
11 tial basis;

12 (B) to jeopardize the integrity or success
13 of an ongoing criminal investigation or prosecu-
14 tion;

15 (C) to endanger the life or physical safety
16 of any person; or

17 (D) to cause substantial harm to physical
18 property.

19 (3) NOTIFICATION REQUIRED.—If the Director
20 of National Intelligence makes a determination
21 under paragraph (1) or the Attorney General makes
22 a determination under paragraph (2), the Director
23 or the Attorney General, as the case may be, shall
24 notify the appropriate congressional committees and

1 leadership of the determination and the reasons for
2 the determination.

3 (e) PROVISION OF INFORMATION REQUIRED FOR RE-
4 PORTS.—The Secretary of the Treasury, the Attorney
5 General, the Secretary of Defense, the Secretary of State,
6 the Secretary of Homeland Security, and the Director of
7 National Intelligence shall consult among themselves and
8 provide to the President and the Director of the Office
9 of National Drug Control Policy the appropriate and nec-
10 essary information to enable the President to submit the
11 reports required by subsection (a).

12 **SEC. 102. SENSE OF CONGRESS AND REPORTING ON INTER-**
13 **NATIONAL OPIOID CONTROL REGIME.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that, in order to apply economic and other financial
16 sanctions to foreign traffickers of illicit opioids to protect
17 the national security, foreign policy, and economy of the
18 United States—

19 (1) the President should instruct the Secretary
20 of State to commence immediately diplomatic ef-
21 forts, both in appropriate international fora such as
22 the United Nations, the Group of Seven, the Group
23 of Twenty, trilaterally and bilaterally with partners
24 of the United States, to establish a multilateral

1 sanctions regime against foreign opioid traffickers;
2 and

3 (2) the Secretary of State, in consultation with
4 the Secretary of the Treasury, may consider forming
5 a new coalition of countries to establish a multilat-
6 eral sanctions regime against foreign opioid traf-
7 fickers if certain countries in existing multilateral
8 fora fail to cooperate with respect to establishing
9 such a regime.

10 (b) REPORTS TO CONGRESS.—

11 (1) IN GENERAL.—The President shall include,
12 in each report required by section 101(b), an assess-
13 ment conducted by the Secretary of State, in con-
14 sultation with the Secretary of the Treasury, of the
15 extent to which any diplomatic efforts described in
16 subsection (a) have been successful.

17 (2) ELEMENTS.—Each assessment required by
18 paragraph (1) shall include an identification of—

19 (A) the countries the governments of which
20 have agreed to undertake measures to apply
21 economic or other financial sanctions to foreign
22 traffickers of illicit opioids and a description of
23 those measures; and

24 (B) the countries the governments of which
25 have not agreed to measures described in sub-

1 paragraph (A), and, with respect to those coun-
2 tries, other measures the Secretary of State rec-
3 ommends that the United States take to apply
4 economic and other financial sanctions to for-
5 eign traffickers of illicit opioids.

6 **SEC. 103. IMPOSITION OF SANCTIONS.**

7 The President shall impose 5 or more of the sanctions
8 described in section 104 with respect to each foreign per-
9 son that is an entity, and 4 or more of such sanctions
10 with respect to each foreign person that is an individual,
11 that—

12 (1) is identified as a foreign opioid trafficker in
13 a report submitted under section 101(a); or

14 (2) the President determines is owned, con-
15 trolled, directed by, supplying or sourcing precursors
16 for, or acting for or on behalf of, such a foreign
17 opioid trafficker.

18 **SEC. 104. DESCRIPTION OF SANCTIONS.**

19 (a) IN GENERAL.—The sanctions that may be im-
20 posed with respect to a foreign person under section 103
21 are the following:

22 (1) LOANS FROM UNITED STATES FINANCIAL
23 INSTITUTIONS.—The United States Government
24 may prohibit any United States financial institution

1 from making loans or providing credits to the for-
2 eign person.

3 (2) PROHIBITIONS ON FINANCIAL INSTITU-
4 TIONS.—The following prohibitions may be imposed
5 with respect to a foreign person that is a financial
6 institution:

7 (A) PROHIBITION ON DESIGNATION AS
8 PRIMARY DEALER.—Neither the Board of Gov-
9 ernors of the Federal Reserve System nor the
10 Federal Reserve Bank of New York may des-
11 ignate, or permit the continuation of any prior
12 designation of, the financial institution as a pri-
13 mary dealer in United States Government debt
14 instruments.

15 (B) PROHIBITION ON SERVICE AS A RE-
16 POSITORY OF GOVERNMENT FUNDS.—The fi-
17 nancial institution may not serve as agent of
18 the United States Government or serve as re-
19 pository for United States Government funds.

20 The imposition of either sanction under subpara-
21 graph (A) or (B) shall be treated as one sanction for
22 purposes of section 103, and the imposition of both
23 such sanctions shall be treated as 2 sanctions for
24 purposes of that section.

1 (3) PROCUREMENT BAN.—The United States
2 Government may not procure, or enter into any con-
3 tract for the procurement of, any goods or services
4 from the foreign person.

5 (4) FOREIGN EXCHANGE.—The President may,
6 pursuant to such regulations as the President may
7 prescribe, prohibit any transactions in foreign ex-
8 change that are subject to the jurisdiction of the
9 United States and in which the foreign person has
10 any interest.

11 (5) BANKING TRANSACTIONS.—The President
12 may, pursuant to such regulations as the President
13 may prescribe, prohibit any transfers of credit or
14 payments between financial institutions or by,
15 through, or to any financial institution, to the extent
16 that such transfers or payments are subject to the
17 jurisdiction of the United States and involve any in-
18 terest of the foreign person.

19 (6) PROPERTY TRANSACTIONS.—The President
20 may, pursuant to such regulations as the President
21 may prescribe, prohibit any person from—

22 (A) acquiring, holding, withholding, using,
23 transferring, withdrawing, transporting, import-
24 ing, or exporting any property that is subject to
25 the jurisdiction of the United States and with

1 respect to which the foreign person has any in-
2 terest;

3 (B) dealing in or exercising any right,
4 power, or privilege with respect to such prop-
5 erty; or

6 (C) conducting any transaction involving
7 such property.

8 (7) BAN ON INVESTMENT IN EQUITY OR DEBT
9 OF SANCTIONED PERSON.—The President may, pur-
10 suant to such regulations or guidelines as the Presi-
11 dent may prescribe, prohibit any United States per-
12 son from investing in or purchasing significant
13 amounts of equity or debt instruments of the foreign
14 person.

15 (8) EXCLUSION OF CORPORATE OFFICERS.—
16 The President may direct the Secretary of State to
17 deny a visa to, and the Secretary of Homeland Secu-
18 rity to exclude from the United States, any alien
19 that the President determines is a corporate officer
20 or principal of, or a shareholder with a controlling
21 interest in, the foreign person.

22 (9) SANCTIONS ON PRINCIPAL EXECUTIVE OF-
23 FICERS.—The President may impose on the prin-
24 cipal executive officer or officers of the foreign per-
25 son, or on individuals performing similar functions

1 and with similar authorities as such officer or offi-
2 cers, any of the sanctions described in paragraphs
3 (1) through (8) that are applicable.

4 (b) PENALTIES.—A person that violates, attempts to
5 violate, conspires to violate, or causes a violation of any
6 regulation, license, or order issued to carry out subsection
7 (a) shall be subject to the penalties set forth in subsections
8 (b) and (c) of section 206 of the International Emergency
9 Economic Powers Act (50 U.S.C. 1705) to the same ex-
10 tent as a person that commits an unlawful act described
11 in subsection (a) of that section.

12 (c) EXCEPTIONS.—

13 (1) INTELLIGENCE ACTIVITIES.—Sanctions
14 under this section shall not apply with respect to
15 any activity subject to the reporting requirements
16 under title V of the National Security Act of 1947
17 (50 U.S.C. 3091 et seq.) or to any authorized intel-
18 ligence activities of the United States.

19 (2) EXCEPTION TO COMPLY WITH UNITED NA-
20 TIONS HEADQUARTERS AGREEMENT.—Sanctions
21 under subsection (a)(8) shall not apply to an alien
22 if admitting the alien into the United States is nec-
23 essary to permit the United States to comply with
24 the Agreement regarding the Headquarters of the
25 United Nations, signed at Lake Success June 26,

1 1947, and entered into force November 21, 1947,
2 between the United Nations and the United States,
3 the Convention on Consular Relations, done at Vi-
4 enna April 24, 1963, and entered into force March
5 19, 1967, or other applicable international obliga-
6 tions.

7 (d) IMPLEMENTATION; REGULATORY AUTHORITY.—

8 (1) IMPLEMENTATION.—The President may ex-
9 ercise all authorities provided under sections 203
10 and 205 of the International Emergency Economic
11 Powers Act (50 U.S.C. 1702 and 1704) to carry out
12 this section.

13 (2) REGULATORY AUTHORITY.—The President
14 shall issue such regulations, licenses, and orders as
15 are necessary to carry out this section.

16 **SEC. 105. WAIVERS.**

17 (a) WAIVER FOR STATE-OWNED FINANCIAL INSTI-
18 TUTIONS IN COUNTRIES THAT COOPERATE IN MULTILAT-
19 ERAL ANTI-TRAFFICKING EFFORTS.—

20 (1) IN GENERAL.—The President may, on a
21 case-by-case basis, waive for a period of not more
22 than 12 months the application of sanctions under
23 this title with respect to a financial institution that
24 is owned or controlled, directly or indirectly, by a
25 foreign government or any political subdivision,

1 agency, or instrumentality of a foreign government,
2 if the President, not less than 30 days before the
3 waiver is to take effect, certifies to the appropriate
4 congressional committees and leadership that the
5 foreign government is closely cooperating with the
6 United States in efforts to prevent opioid trafficking.

7 (2) CERTIFICATION.—The President may cer-
8 tify under paragraph (1) that a foreign government
9 is closely cooperating with the United States in ef-
10 forts to prevent opioid trafficking if that government
11 is—

12 (A) implementing domestic laws to sched-
13 ule all fentanyl analogues as controlled sub-
14 stances; and

15 (B) doing 2 or more of the following:

16 (i) Implementing substantial improve-
17 ments in regulations involving the chemical
18 and pharmaceutical production and export
19 of illicit opioids.

20 (ii) Implementing substantial improve-
21 ments in judicial regulations to combat
22 transnational criminal organizations that
23 traffic opioids.

24 (iii) Increasing efforts to prosecute
25 foreign opioid traffickers.

1 (iv) Increasing intelligence sharing
2 and law enforcement cooperation with the
3 United States with respect to opioid traf-
4 ficking.

5 (3) SUBSEQUENT RENEWAL OF WAIVER.—The
6 President may renew a waiver under paragraph (1)
7 for subsequent periods of not more than 6 months
8 each if, not less than 30 days before the renewal is
9 to take effect, the Director of National Intelligence
10 certifies to the appropriate congressional committees
11 and leadership that the government of the country
12 to which the waiver applies has effectively imple-
13 mented and is effectively enforcing the measures
14 that formed the basis for the certification under
15 paragraph (2).

16 (b) WAIVERS FOR NATIONAL SECURITY AND ACCESS
17 TO PRESCRIPTION MEDICATIONS.—

18 (1) IN GENERAL.—The President may waive
19 the application of sanctions under this title with re-
20 spect to a person if the President determines that
21 the application of such sanctions with respect to that
22 person would significantly harm—

23 (A) the national security of the United
24 States; or

1 (B) subject to paragraph (2), the access of
2 United States persons to prescription medica-
3 tions.

4 (2) MONITORING.—The President shall estab-
5 lish a monitoring program to verify that a person re-
6 ceiving a waiver under paragraph (1)(B) is not traf-
7 ficking illicit opioids.

8 (3) NOTIFICATION.—Not later than 21 days
9 after making a determination under paragraph (1)
10 with respect to a person, the President shall notify
11 the appropriate congressional committees and lead-
12 ership of the determination and the reasons for the
13 determination.

14 (c) HUMANITARIAN WAIVER.—The President may
15 waive, for renewable periods of 180 days, the application
16 of the sanctions under this title if the President certifies
17 to the appropriate congressional committees and leader-
18 ship that the waiver is necessary for the provision of hu-
19 manitarian assistance.

20 **SEC. 106. PROCEDURES FOR JUDICIAL REVIEW OF CLASSI-**
21 **FIED INFORMATION.**

22 (a) IN GENERAL.—If a finding under this title, or
23 a prohibition, condition, or penalty imposed as a result
24 of any such finding, is based on classified information (as
25 defined in section 1(a) of the Classified Information Pro-

1 cedures Act (18 U.S.C. App.)) and a court reviews the
2 finding or the imposition of the prohibition, condition, or
3 penalty, the President may submit such information to the
4 court ex parte and in camera.

5 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be construed to confer or imply any right to judi-
7 cial review of any finding under this title, or any prohibi-
8 tion, condition, or penalty imposed as a result of any such
9 finding.

10 **SEC. 107. BRIEFINGS ON IMPLEMENTATION.**

11 Not later than 90 days after the date of the enact-
12 ment of the Fentanyl Sanctions Act, and every 180 days
13 thereafter until the date that is 5 years after such date
14 of enactment, the President, acting through the Secretary
15 of State, in coordination with the Secretary of the Treas-
16 ury, shall provide to the appropriate congressional com-
17 mittees and leadership a comprehensive briefing on efforts
18 to implement this title.

19 **SEC. 108. EXCEPTION RELATING TO IMPORTATION OF**
20 **GOODS.**

21 The authority to impose sanctions under this title
22 shall not include the authority to impose sanctions on the
23 importation of goods.

1 **TITLE II—COMMISSION ON COM-**
2 **BATING SYNTHETIC OPIOID**
3 **TRAFFICKING**

4 **SEC. 201. COMMISSION ON COMBATING SYNTHETIC OPIOID**
5 **TRAFFICKING.**

6 (a) ESTABLISHMENT.—

7 (1) IN GENERAL.—There is established a com-
8 mission to develop a consensus on a strategic ap-
9 proach to combating the flow of synthetic opioids
10 into the United States.

11 (2) DESIGNATION.—The commission estab-
12 lished under paragraph (1) shall be known as the
13 “Commission on Synthetic Opioid Trafficking” (in
14 this section referred to as the “Commission”).

15 (b) MEMBERSHIP.—

16 (1) COMPOSITION.—

17 (A) IN GENERAL.—Subject to subpara-
18 graph (B), the Commission shall be composed
19 of the following members:

20 (i) The Administrator of the Drug
21 Enforcement Administration.

22 (ii) The Secretary of Homeland Secu-
23 rity.

24 (iii) The Secretary of Defense.

25 (iv) The Secretary of the Treasury.

1 (v) The Secretary of State.

2 (vi) Two members appointed by the
3 majority leader of the Senate, one of whom
4 shall be a Member of the Senate and one
5 of whom shall not be.

6 (vii) Two members appointed by the
7 minority leader of the Senate, one of whom
8 shall be a Member of the Senate and one
9 of whom shall not be.

10 (viii) Two members appointed by the
11 Speaker of the House of Representatives,
12 one of whom shall be a Member of the
13 House of Representatives and one of whom
14 shall not be.

15 (ix) Two members appointed by the
16 minority leader of the House of Represent-
17 atives, one of whom shall be a Member of
18 the House of Representatives and one of
19 whom shall not be.

20 (B)(i) The members of the Commission
21 who are not Members of Congress and who are
22 appointed under clauses (vi) through (ix) of
23 subparagraph (A) shall be individuals who are
24 nationally recognized for expertise, knowledge,
25 or experience in—

1 (I) transnational criminal organiza-
2 tions conducting synthetic opioid traf-
3 ficking;

4 (II) the production, manufacturing,
5 distribution, sale, or transportation of syn-
6 thetic opioids; or

7 (III) relations between—

8 (aa) the United States; and

9 (bb) the People’s Republic of
10 China, Mexico, or any other country
11 of concern with respect to trafficking
12 in synthetic opioids.

13 (ii) An official who appoints members of
14 the Commission may not appoint an individual
15 as a member of the Commission if the indi-
16 vidual possesses any personal or financial inter-
17 est in the discharge of any of the duties of the
18 Commission.

19 (iii)(I) All members of the Commission de-
20 scribed in clause (i) shall possess an appro-
21 priate security clearance in accordance with ap-
22 plicable provisions of law concerning the han-
23 dling of classified information.

24 (II) For the purpose of facilitating the ac-
25 tivities of the Commission, the Director of Na-

1 tional Intelligence shall expedite to the fullest
2 degree possible the processing of security clear-
3 ances that are necessary for members of the
4 Commission.

5 (2) CO-CHAIRS.—

6 (A) IN GENERAL.—The Commission shall
7 have 2 co-chairs, selected from among the mem-
8 bers of the Commission, one of whom shall be
9 a member of the majority party and one of
10 whom shall be a member of the minority party.

11 (B) SELECTION.—The individuals who
12 serve as the co-chairs of the Commission shall
13 be jointly agreed upon by the President, the
14 majority leader of the Senate, the minority
15 leader of the Senate, the Speaker of the House
16 of Representatives, and the minority leader of
17 the House of Representatives.

18 (c) DUTIES.—The duties of the Commission are as
19 follows:

20 (1) To define the core objectives and priorities
21 of the strategic approach described in subsection
22 (a)(1).

23 (2) To weigh the costs and benefits of various
24 strategic options to combat the flow of synthetic

1 opioids from the People’s Republic of China, Mexico,
2 and other countries.

3 (3) To evaluate whether the options described
4 in paragraph (2) are exclusive or complementary,
5 the best means for executing such options, and how
6 the United States should incorporate and implement
7 such options within the strategic approach described
8 in subsection (a)(1).

9 (4) To review and make determinations on the
10 difficult choices present within such options, among
11 them what norms-based regimes the United States
12 should seek to establish to encourage the effective
13 regulation of dangerous synthetic opioids.

14 (5) To report on efforts by actors in the Peo-
15 ple’s Republic of China to subvert United States
16 laws and to supply illicit synthetic opioids to persons
17 in the United States, including up-to-date estimates
18 of the scale of illicit synthetic opioids flows from the
19 People’s Republic of China.

20 (6) To report on the deficiencies in the regula-
21 tion of pharmaceutical and chemical production of
22 controlled substances and export controls with re-
23 spect to such substances in the People’s Republic of
24 China and other countries that allow opioid traf-

1 fickers to subvert such regulations and controls to
2 traffic illicit opioids into the United States.

3 (7) To report on the scale of contaminated or
4 counterfeit drugs originating from the People’s Re-
5 public of China and India.

6 (8) To report on how the United States could
7 work more effectively with provincial and local offi-
8 cials in the People’s Republic of China and other
9 countries to combat the illicit production of synthetic
10 opioids.

11 (9) In weighing the options for defending the
12 United States against the dangers of trafficking in
13 synthetic opioids, to consider possible structures and
14 authorities that need to be established, revised, or
15 augmented within the Federal Government.

16 (d) FUNCTIONING OF COMMISSION.—The provisions
17 of subsections (c), (d), (e), (g), (h), (i), and (m) of section
18 1652 of the John S. McCain National Defense Authoriza-
19 tion Act for Fiscal Year 2019 (Public Law 115–232) shall
20 apply to the Commission to the same extent and in the
21 same manner as such provisions apply to the commission
22 established under that section, except that—

23 (1) subsection (c)(1) of that section shall be ap-
24 plied and administered by substituting “30 days” for
25 “45 days”;

1 (2) subsection (g)(4)(A) of that section shall be
2 applied and administered by inserting “and the At-
3 torney General” after “Secretary of Defense”; and

4 (3) subsections (h)(2)(A) and (i)(1)(A) of that
5 section shall be applied and administered by sub-
6 stituting “level V of the Executive Schedule under
7 section 5316” for “level IV of the Executive Sched-
8 ule under section 5315”.

9 (e) TREATMENT OF INFORMATION RELATING TO NA-
10 TIONAL SECURITY.—

11 (1) RESPONSIBILITY OF DIRECTOR OF NA-
12 TIONAL INTELLIGENCE.—The Director of National
13 Intelligence shall assume responsibility for the han-
14 dling and disposition of any information related to
15 the national security of the United States that is re-
16 ceived, considered, or used by the Commission under
17 this section.

18 (2) INFORMATION PROVIDED BY CONGRESS.—
19 Any information related to the national security of
20 the United States that is provided to the Commis-
21 sion by the appropriate congressional committees
22 and leadership may not be further provided or re-
23 leased without the approval of the chairperson of the
24 committee, or the Member of Congress, as the case

1 may be, that provided the information to the Com-
2 mission.

3 (3) ACCESS AFTER TERMINATION OF COMMIS-
4 SION.—Notwithstanding any other provision of law,
5 after the termination of the Commission under sub-
6 section (h), only the members and designated staff
7 of the appropriate congressional committees and
8 leadership, the Director of National Intelligence (and
9 the designees of the Director), and such other offi-
10 cials of the executive branch as the President may
11 designate shall have access to information related to
12 the national security of the United States that is re-
13 ceived, considered, or used by the Commission.

14 (f) REPORTS.—The Commission shall submit to the
15 appropriate congressional committees and leadership—

16 (1) not later than 270 days after the date of
17 the enactment of this Act, an initial report on the
18 activities and recommendations of the Commission
19 under this section; and

20 (2) not later than 270 days after the submis-
21 sion of the initial report under paragraph (1), a final
22 report on the activities and recommendations of the
23 Commission under this section.

24 (g) LIMITATION ON FUNDING.—Of amounts made
25 available under sections 302, 303, and 304 to carry out

1 this Act, not more than \$5,000,000 shall be available to
2 the Commission in any of fiscal years 2020 through 2025.

3 (h) TERMINATION.—

4 (1) IN GENERAL.—The Commission, and all the
5 authorities of this section, shall terminate at the end
6 of the 120-day period beginning on the date on
7 which the final report required by subsection (f)(2)
8 is submitted to the appropriate congressional com-
9 mittees and leadership.

10 (2) WINDING UP OF AFFAIRS.—The Commis-
11 sion may use the 120-day period described in para-
12 graph (1) for the purposes of concluding its activi-
13 ties, including providing testimony to Congress con-
14 cerning the final report required by subsection (f)(2)
15 and disseminating the report.

16 **TITLE III—OTHER MATTERS**

17 **SEC. 301. DIRECTOR OF NATIONAL INTELLIGENCE PRO-** 18 **GRAM ON USE OF INTELLIGENCE RE-** 19 **SOURCES IN EFFORTS TO SANCTION FOR-** 20 **EIGN OPIOID TRAFFICKERS.**

21 (a) PROGRAM REQUIRED.—

22 (1) IN GENERAL.—The Director of National In-
23 telligence shall, with the concurrence of the Director
24 of the Office of National Drug Control Policy, carry
25 out a program to allocate and enhance use of re-

1 sources of the intelligence community, including in-
2 telligence collection and analysis, to assist the Sec-
3 retary of the Treasury and the Administrator of the
4 Drug Enforcement Administration in efforts to iden-
5 tify and impose sanctions with respect to foreign
6 opioid traffickers under title I.

7 (2) FOCUS ON ILLICIT FINANCE.—To the ex-
8 tent practicable, efforts described in paragraph (1)
9 shall—

10 (A) take into account specific illicit finance
11 risks related to narcotics trafficking; and

12 (B) be developed in consultation with the
13 Undersecretary of the Treasury for Terrorism
14 and Financial Crimes, appropriate officials of
15 the Office of Intelligence and Analysis of the
16 Department of the Treasury, the Director of
17 the Financial Crimes Enforcement Network,
18 and appropriate Federal law enforcement agen-
19 cies.

20 (b) REVIEW OF COUNTERNARCOTICS EFFORTS OF
21 THE INTELLIGENCE COMMUNITY.—The Director of Na-
22 tional Intelligence shall, in coordination with the Director
23 of the Office of National Drug Control Policy, carry out
24 a comprehensive review of the current intelligence collec-
25 tion priorities of the intelligence community for counter-

1 narcotics purposes in order to identify whether such prior-
2 ities are appropriate and sufficient in light of the number
3 of lives lost in the United States each year due to use
4 of illegal drugs.

5 (c) REPORTS.—

6 (1) QUARTERLY REPORTS ON PROGRAM.—Not
7 later than 90 days after the date of the enactment
8 of this Act, and every 90 days thereafter, the Direc-
9 tor of National Intelligence and the Director of the
10 Office of National Drug Control Policy shall jointly
11 submit to the appropriate congressional committees
12 and leadership a report on the status and accom-
13 plishments of the program required by subsection
14 (a) during the 90-day period ending on the date of
15 the report. The first report under this paragraph
16 shall also include a description of the amount of
17 funds devoted by the intelligence community to the
18 efforts described in subsection (a) during each of fis-
19 cal years 2017 and 2018.

20 (2) REPORT ON REVIEW.—Not later than 120
21 days after the date of the enactment of this Act, the
22 Director of National Intelligence and the Director of
23 the Office of National Drug Control Policy shall
24 jointly submit to the appropriate congressional com-
25 mittees and leadership a comprehensive description

1 of the results of the review required by subsection
2 (b), including whether the priorities described in
3 that subsection are appropriate and sufficient in
4 light of the number of lives lost in the United States
5 each year due to use of illegal drugs. If the report
6 concludes that such priorities are not so appropriate
7 and sufficient, the report shall also include a de-
8 scription of the actions to be taken to modify such
9 priorities in order to assure that such priorities are
10 so appropriate and sufficient.

11 (d) INTELLIGENCE COMMUNITY DEFINED.—In this
12 section, the term “intelligence community” has the mean-
13 ing given that term in section 3(4) of the National Secu-
14 rity Act of 1947 (50 U.S.C. 3003(4)).

15 **SEC. 302. DEPARTMENT OF DEFENSE FUNDING.**

16 (a) SOURCE OF FUNDS.—Subject to subsection (b),
17 amounts authorized to be appropriated for each of fiscal
18 years 2020 through 2025 for the Department of Defense
19 for operation and maintenance shall be available for oper-
20 ations and activities described in subsection (c).

21 (b) LIMITATION ON AMOUNT AVAILABLE.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the amount available under subsection (a) in a fiscal
24 year to carry out operations and activities described
25 in subsection (c) may not exceed the following:

1 (A) In fiscal year 2020, \$25,000,000.

2 (B) In each of fiscal years 2021 through
3 2025, \$35,000,000.

4 (2) EXCLUSION OF FUNDS FOR US SOUTHCOM
5 FROM LIMITATION.—Amounts authorized to be ap-
6 propriated for a fiscal year for operation and main-
7 tenance and available for such fiscal year for the
8 United States Southern Command for operations
9 and activities described in subsection (c)(2) shall not
10 count toward the limitation applicable to such fiscal
11 year under paragraph (1).

12 (c) OPERATIONS AND ACTIVITIES.—The operations
13 and activities described in this subsection are the fol-
14 lowing:

15 (1) The operations and activities of any depart-
16 ment or agency of the United States Government
17 (other than the Department of Defense) in carrying
18 out this Act.

19 (2) The operations and activities of the Depart-
20 ment of Defense in support of any other department
21 or agency of the United States Government in car-
22 rying out this Act.

23 (d) TRANSFER AUTHORITY.—

24 (1) IN GENERAL.—The Secretary of Defense
25 may transfer funds authorized to be appropriated

1 for the Department of Defense as described in sub-
2 section (a) to any other department or agency of the
3 United States Government to carry out this Act.

4 (2) NOTICE REQUIREMENTS.—Any transfer
5 under this subsection shall not be subject to any re-
6 programming requirements under law. However, a
7 notice on any such transfer shall be provided to the
8 appropriate committees of Congress.

9 (3) INAPPLICABILITY OF TRANSFER LIMITA-
10 TIONS.—Any transfer under this subsection in a fis-
11 cal year shall not count toward or apply against any
12 limitation on amounts transferrable by the Depart-
13 ment of Defense in such fiscal year, including any
14 limitation specified in an annual defense authoriza-
15 tion Act for such fiscal year.

16 **SEC. 303. DEPARTMENT OF STATE FUNDING.**

17 (a) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary of State
19 to carry out the operations and activities described in sub-
20 section (b)—

21 (1) \$25,000,000 for fiscal year 2020; and

22 (2) \$35,000,000 for each of fiscal years 2021
23 through 2025.

1 (b) OPERATIONS AND ACTIVITIES DESCRIBED.—The
2 operations and activities described in this subsection are
3 the following:

4 (1) The operations and activities of any depart-
5 ment or agency of the United States Government
6 (other than the Department of State) in carrying
7 out this Act.

8 (2) The operations and activities of the Depart-
9 ment of State in support of any other department or
10 agency of the United States Government in carrying
11 out this Act.

12 (c) NOTIFICATION REQUIREMENT.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), amounts authorized to be appropriated by
15 subsection (a) may not be obligated until 15 days
16 after the date on which the President notifies the
17 appropriate committees of Congress of the Presi-
18 dent's intention to obligate such funds.

19 (2) WAIVER.—

20 (A) IN GENERAL.—The Secretary of State
21 may waive the notification requirement under
22 paragraph (1) if the Secretary determines that
23 such a waiver is in the national security inter-
24 ests of the United States.

1 (B) NOTIFICATION REQUIREMENT.—If the
2 Secretary exercises the authority provided
3 under subparagraph (A) to waive the notifica-
4 tion requirement under paragraph (1), the Sec-
5 retary shall notify the appropriate committees
6 of Congress of the President’s intention to obli-
7 gate amounts authorized to be appropriated by
8 subsection (a) as soon as practicable, but not
9 later than 3 days after obligating such funds.

10 (d) TRANSFER AUTHORITY.—

11 (1) IN GENERAL.—The Secretary of State may
12 transfer funds authorized to be appropriated by sub-
13 section (a) to any other department or agency of the
14 United States Government to carry out this Act.

15 (2) NOTICE REQUIREMENTS.—Any transfer
16 under this subsection shall not be subject to any re-
17 programming requirements under law. However, a
18 notice on any such transfer shall be provided to the
19 appropriate committees of Congress.

20 **SEC. 304. DEPARTMENT OF THE TREASURY FUNDING.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of the
23 Treasury to carry out the operations and activities de-
24 scribed in subsection (b)—

25 (1) \$25,000,000 for fiscal year 2020; and

1 (2) \$35,000,000 for each of fiscal years 2021
2 through 2025.

3 (b) OPERATIONS AND ACTIVITIES DESCRIBED.—The
4 operations and activities described in this subsection are
5 the following:

6 (1) The operations and activities of any depart-
7 ment or agency of the United States Government
8 (other than the Department of the Treasury) in car-
9 rying out this Act.

10 (2) The operations and activities of the Depart-
11 ment of the Treasury in support of any other de-
12 partment or agency of the United States Govern-
13 ment in carrying out this Act.

14 (c) NOTIFICATION REQUIREMENT.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), amounts authorized to be appropriated by
17 subsection (a) may not be obligated until 15 days
18 after the date on which the President notifies the
19 appropriate committees of Congress of the Presi-
20 dent’s intention to obligate such funds.

21 (2) WAIVER.—

22 (A) IN GENERAL.—The Secretary of the
23 Treasury may waive the notification require-
24 ment under paragraph (1) if the Secretary de-

1 termines that such a waiver is in the national
2 security interests of the United States.

3 (B) NOTIFICATION REQUIREMENT.—If the
4 Secretary exercises the authority provided
5 under subparagraph (A) to waive the notifica-
6 tion requirement under paragraph (1), the Sec-
7 retary shall notify the appropriate committees
8 of Congress of the President’s intention to obli-
9 gate amounts authorized to be appropriated by
10 subsection (a) as soon as practicable, but not
11 later than 3 days after obligating such funds.

12 (d) TRANSFER AUTHORITY.—

13 (1) IN GENERAL.—The Secretary of the Treas-
14 ury may transfer funds authorized to be appro-
15 priated by subsection (a) to any other department or
16 agency of the United States Government to carry
17 out this Act.

18 (2) NOTICE REQUIREMENTS.—Any transfer
19 under this subsection shall not be subject to any re-
20 programming requirements under law. However, a
21 notice on any such transfer shall be provided to the
22 appropriate committees of Congress.

1 **SEC. 305. APPROPRIATE COMMITTEES OF CONGRESS DE-**
2 **FINED.**

3 In this title, the term “appropriate committees of
4 Congress” means—

5 (1) the Committee on Armed Services, the
6 Committee on Banking, Housing, and Urban Af-
7 fairs, the Committee on Foreign Relations, the Se-
8 lect Committee on Intelligence, and the Committee
9 on Appropriations of the Senate; and

10 (2) the Committee on Armed Services, the
11 Committee on Financial Services, the Committee on
12 Foreign Affairs, the Permanent Select Committee on
13 Intelligence, and the Committee on Appropriations
14 of the House of Representatives.

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