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

JUNE 5, 2019

Mr. KENNEDY (for himself, Mr. COTTON, Mr. Sasse, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ending the Fentanyl Crisis Act of 2019”.

SEC. 2. CONTROLLED SUBSTANCES ACT AMENDMENTS.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(vi)—
(A) by striking “400” and inserting “20”;
(B) by striking “100” and inserting “5”;
and
(C) by inserting “scheduled or unscheduled” before “analogue of”; and

(2) in subparagraph (B)(vi)—
(A) by striking “40” and inserting “2”;
(B) by striking “10” and inserting “0.5”;
and
(C) by inserting “scheduled or unscheduled” before “analogue of”.

SEC. 3. CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENTS.

Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b))—

(1) in paragraph (1)(F)—
(A) by striking “400” and inserting “20”;
(B) by striking “100” and inserting “5”;
and
(C) by inserting “scheduled or unscheduled” before “analogue of”; and

(2) in paragraph (2)(F)—
(A) by striking “40” and inserting “2”;
(B) by striking “10” and inserting “0.5”;
and
(C) by inserting “scheduled or unscheduled” before “analogue of”.

SEC. 4. DIRECTIVE TO THE SENTENCING COMMISSION.

(a) DEFINITION.—In this section, the term “Commission” means the United States Sentencing Commission.

(b) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to the authority of the Commission under section 994(p) of title 28, United States Code, and in accordance with this section, the Commission shall review and amend, if appropriate, the guidelines and policy statements of the Commission applicable to a person convicted of an offense under section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to ensure that the guidelines and policy statements are consistent with the amendments made by sections 2 and 3 of this Act.

(c) EMERGENCY AUTHORITY.—The Commission shall—

(1) promulgate the guidelines, policy statements, or amendments provided for in this Act as soon as practicable, and in any event not later than 120 days after the date of enactment of this Act, in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994
note), as though the authority under that Act had not expired; and

(2) pursuant to the emergency authority provided under paragraph (1), make such conforming amendments to the Federal sentencing guidelines as the Commission determines necessary to achieve consistency with other guideline provisions and applicable law.

SEC. 5. INTERDICTION OF FENTANYL, OTHER SYNTHETIC OPIOIDS, AND OTHER NARCOTICS AND PSYCHOACTIVE SUBSTANCES.

(a) DEFINITIONS.—In this section—

(1) the term “chemical screening device” means an immunoassay, narcotics field test kit, infrared spectrophotometer, mass spectrometer, nuclear magnetic resonance spectrometer, Raman spectrophotometer, or other scientific instrumentation able to collect data that can be interpreted to determine the presence of fentanyl, other synthetic opioids, and other narcotics and psychoactive substances;

(2) the term “express consignment operator or carrier” has the meaning given the term in section 128.1 of title 19, Code of Federal Regulations, or any successor thereto; and
(3) the term “Postmaster General” means the Postmaster General of the United States Postal Service.

(b) Interdiction of Fentanyl, Other Synthetic Opioids, and Other Narcotics and Psychoactive Substances.—

(1) Chemical screening devices.—The Postmaster General shall—

(A) increase the number of chemical screening devices that are available to the United States Postal Service; and

(B) make additional chemical screening devices available to the United States Postal Service as the Postmaster General determines are necessary to interdict fentanyl, other synthetic opioids, and other narcotics and psychoactive substances that are illegally imported into the United States, including such substances that are imported through the mail or by an express consignment operator or carrier.

(2) Personnel to interpret data.—The Postmaster General shall dedicate the appropriate number of personnel of the United States Postal Service, including scientists, so that those personnel
are available during all operational hours to interpret data collected by chemical screening devices.

(c) **Authorization of Appropriations.**—There is authorized to be appropriated to the Postmaster General $9,000,000 to ensure that the United States Postal Service has resources, including chemical screening devices, personnel, and scientists, available during all operational hours to prevent, detect, and interdict the unlawful importation of fentanyl, other synthetic opioids, and other narcotics and psychoactive substances.