

116TH CONGRESS
2D SESSION

S. 3201

AN ACT

To extend the temporary scheduling order for fentanyl-related substances, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Temporary Reauthor-
3 ization and Study of the Emergency Scheduling of
4 Fentanyl Analogues Act”.

5 **SEC. 2. EXTENSION OF TEMPORARY ORDER FOR**
6 **FENTANYL-RELATED SUBSTANCES.**

7 Notwithstanding any other provision of law, section
8 1308.11(h)(30) of title 21, Code of Federal Regulations,
9 shall remain in effect until May 6, 2021.

10 **SEC. 3. STUDY AND REPORT ON IMPACTS OF CLASSWIDE**
11 **SCHEDULING.**

12 (a) **DEFINITION.**—In this section, the term
13 “fentanyl-related substance” has the meaning given the
14 term in section 1308.11(h)(30)(i) of title 21, Code of Fed-
15 eral Regulations.

16 (b) **GAO REPORT.**—The Comptroller General of the
17 United States shall—

18 (1) conduct a study of the classification of
19 fentanyl-related substances as schedule I controlled
20 substances under the Controlled Substances Act (21
21 U.S.C. 801 et seq.), research on fentanyl-related
22 substances, and the importation of fentanyl-related
23 substances into the United States; and

24 (2) not later than 1 year after the date of en-
25 actment of this Act, submit a report on the results
26 of the study conducted under paragraph (1) to—

1 (A) the Committee on the Judiciary of the
2 Senate;

3 (B) the Committee on Health, Education,
4 Labor, and Pensions of the Senate;

5 (C) the Caucus on International Narcotics
6 Control of the Senate;

7 (D) the Committee on the Judiciary of the
8 House of Representatives; and

9 (E) the Committee on Energy and Com-
10 merce of the House of Representatives.

11 (c) REQUIREMENTS.—The Comptroller General, in
12 conducting the study and developing the report required
13 under subsection (b), shall—

14 (1) evaluate class control of fentanyl-related
15 substances, including—

16 (A) the definition of the class of fentanyl-
17 related substances in section 1308.11(h)(30)(i)
18 of title 21, Code of Federal Regulations, includ-
19 ing the process by which the definition was for-
20 mulated;

21 (B) the potential for classifying fentanyl-
22 related substances with no, or low, abuse poten-
23 tial, or potential accepted medical use, as sched-
24 ule I controlled substances when scheduled as a
25 class; and

1 (C) any known classification of fentanyl-re-
2 lated substances with no, or low, abuse poten-
3 tial, or potential accepted medical use, as sched-
4 ule I controlled substances that has resulted
5 from the scheduling action of the Drug En-
6 forcement Administration that added paragraph
7 (h)(30) to section 1308.11 of title 21, Code of
8 Federal Regulations;

9 (2) review the impact or potential impact of
10 controls on fentanyl-related substances on public
11 health and safety, including on—

12 (A) diversion risks, overdose deaths, and
13 law enforcement encounters with fentanyl-re-
14 lated substances; and

15 (B) Federal law enforcement investigations
16 and prosecutions of offenses relating to
17 fentanyl-related substances;

18 (3) review the impact of international regu-
19 latory controls on fentanyl-related substances on the
20 supply of such substances to the United States, in-
21 cluding by the Government of the People's Republic
22 of China;

23 (4) review the impact or potential impact of
24 screening and other interdiction efforts at points of

1 entry into the United States on the importation of
2 fentanyl-related substances into the United States;

3 (5) recommend best practices for accurate,
4 swift, and permanent control of fentanyl-related sub-
5 stances, including—

6 (A) how to quickly remove from the sched-
7 ules under the Controlled Substances Act sub-
8 stances that are determined, upon discovery, to
9 have no abuse potential; and

10 (B) how to reschedule substances that are
11 determined, upon discovery, to have a low abuse
12 potential or potential accepted medical use;

13 (6) review the impact or potential impact of
14 fentanyl-related controls by class on scientific and
15 biomedical research; and

16 (7) evaluate the processes used to obtain or
17 modify Federal authorization to conduct research
18 with fentanyl-related substances, including by—

19 (A) identifying opportunities to reduce un-
20 necessary burdens on persons seeking to re-
21 search fentanyl-related substances;

22 (B) identifying opportunities to reduce any
23 redundancies in the responsibilities of Federal
24 agencies;

1 (C) identifying opportunities to reduce any
2 inefficiencies related to the processes used to
3 obtain or modify Federal authorization to con-
4 duct research with fentanyl-related substances;

5 (D) identifying opportunities to improve
6 the protocol review and approval process con-
7 ducted by Federal agencies; and

8 (E) evaluating the degree, if any, to which
9 establishing processes to obtain or modify a
10 Federal authorization to conduct research with
11 a fentanyl-related substance that are separate
12 from the applicable processes for other schedule
13 I controlled substances could exacerbate bur-
14 dens or lead to confusion among persons seek-
15 ing to research fentanyl-related substances or
16 other schedule I controlled substances.

17 (d) INPUT FROM CERTAIN FEDERAL AGENCIES.—In
18 conducting the study and developing the report under sub-
19 section (b), the Comptroller General shall consider the
20 views of the Department of Health and Human Services
21 and the Department of Justice.

22 (e) INFORMATION FROM FEDERAL AGENCIES.—
23 Each Federal department or agency shall, in accordance
24 with applicable procedures for the appropriate handling of
25 classified information, promptly provide reasonable access

1 to documents, statistical data, and any other information
2 that the Comptroller General determines is necessary to
3 conduct the study and develop the report required under
4 subsection (b).

5 (f) INPUT FROM CERTAIN NON-FEDERAL ENTI-
6 TIES.—In conducting the study and developing the report
7 under subsection (b), the Comptroller General shall con-
8 sider the views of experts from certain non-Federal enti-
9 ties, including experts from—

10 (1) the scientific and medical research commu-
11 nity;

12 (2) the State and local law enforcement commu-
13 nity; and

14 (3) the civil rights and criminal justice reform
15 communities.

Passed the Senate January 16, 2020.

Attest:

Secretary.

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