

PREVENT EXPOSURE TO NARCOTICS AND TOXICS ACT OF 2021

JUNE 17, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland
Security, submitted the following

R E P O R T

[To accompany H.R. 5274]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5274) to amend the Homeland Security Act of 2002 to provide training for U.S. Customs and Border Protection personnel on the use of containment devices to prevent secondary exposure to fentanyl and other potentially lethal substances, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5274, the “Prevent Exposure to Narcotics and Toxics Act of 2021” amends the Homeland Security Act of 2002 to provide training for U.S. Customs and Border Protection (CBP) personnel on the use of containment devices to reduce exposure to fentanyl and other potentially lethal substances when engaged in inspections and other border security-related activities. The legislation also ensures the availability of containment devices for CBP personnel at risk of accidental exposure to synthetic opioids in the course of carrying out their official duties.

BACKGROUND AND NEED FOR LEGISLATION

The opioid epidemic is a national challenge that has taken thousands of American lives. Overdose deaths have been rising throughout the COVID-19 pandemic, with the Centers for Disease Control and Prevention (CDC) estimating that 107,622 drug overdose deaths occurred in 2021—an increase of nearly 15 percent from 2020. Between 2019 and 2020, overdose deaths rose by 30 percent. With most of these lethal drugs originate overseas, CBP prioritizes the interdiction and seizure of opioids and other illicit drugs at our borders, before they make their way into American communities. CBP estimates it interdicted 1.2 billion potential doses of fentanyl in Fiscal Year (FY) 2020 and 2.6 billion potential doses of fentanyl in FY 2021. While fentanyl is the most frequently seized synthetic opioid, CBP is also encountering fentanyl analogues and other synthetic opioids. In the first 6 months of FY 2022, CBP encountered fentanyl and 29 of its analogues, as well as 50 unique synthetic opioids that are not from the fentanyl class.

In the course of carrying out their border inspections mission, CBP personnel are at high risk of exposure to harmful substances through inhalation, ingestion, and skin contact. Containment devices prevent exposure by creating a controlled, negative pressure environment to reduce exposure to hazardous substances. These devices bring a second layer of protection beyond personal protection equipment (PPE) and protect the lives of personnel interdicting toxics at our border.

In July 2019, the Department of Homeland Security’s Office of Inspector General (OIG) issued a Management Alert entitled “CBP Did Not Adequately Protect Employees from Possible Fentanyl Exposure” (OIG-19-53) that identified a number of serious issues with CBP’s preparations for accidental contact with synthetics, and recommended that CBP revise its training to include guidance on safely handling and storing fentanyl and other opioids. In response to the OIG Management Alert, the Committee advanced two measures that were enacted into law in the 116th Congress: the “Synthetic Opioid Exposure Prevention and Training Act” (Pub. L. 116-260) and “DHS Opioid Detection Resilience Act of 2019” (Pub. L. 116-254).

H.R. 5274 builds upon those two prior laws by requiring CBP to provide training for its personnel on the use of containment devices to prevent accidental exposure to fentanyl and other potentially lethal substances. The legislation also requires CBP to ensure that containment devices are available to all CBP personnel at risk of accidental exposure to synthetic opioids.

HEARINGS

For the purposes of clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearings were used to develop H.R. 5274:

- On May 18, 2022, the Committee held a hearing entitled “Examining DHS’s Efforts to Combat the Opioid Epidemic.” The Committee received testimony from Mr. Brian Sulc, Executive Director, Transnational Organized Crime Mission Center, Office of Intelligence & Analysis, U.S. Department of Homeland Security; Mr. Pete Flores, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs & Border Protection, U.S. Department of Homeland Security; and Mr. Steve Cagen, Assistant Director for Countering Transnational Organized Crime, Homeland Security Investigations, U.S. Immigration & Customs Enforcement, U.S. Department of Homeland Security.

In the 116th Congress, the Committee also held a relevant hearing:

- On July 25, 2019, the Committee held a hearing entitled “Homeland Security Implications of the Opioid Crisis.” The Committee received testimony from Sondra McCauley, Assistant Inspector General for Audits, Office of Inspector General, U.S. Department of Homeland Security; Bridget G. Brennan, Special Narcotics Prosecutor for the City of New York; Bryce Pardo, Associate Policy Researcher, RAND Corporation; and James Edward Hinson, Jr., Deputy Chief, Greensboro Police Department, Investigative Bureau Commander.

COMMITTEE CONSIDERATION

The Committee met on May 19, 2022, a quorum being present, to consider H.R. 5274 and ordered the measure to be favorably reported to the House, without amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 5274.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CORRESPONDENCE WITH OTHER COMMITTEES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, June 17, 2022.

Hon. BENNIE G. THOMPSON,
Chair, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR CHAIR THOMPSON: In recognition of the desire to expedite consideration of H.R. 5274, the “PREVENT Act of 2021”, the Committee on Ways and Means agrees to waive formal consideration of the bill as to provisions that fall within the rule X jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation.

Finally, I would appreciate your response to this letter confirming this understanding and would ask that a copy of our exchange of letter on this matter be included in the *Congressional Record* during floor consideration of H.R. 5274.

Sincerely,

RICHARD E. NEAL,
Chair.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, June 17, 2022.

Hon. RICHARD E. NEAL,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR CHAIRMAN NEAL: Thank you for your letter regarding H.R. 5274, the “PREVENT Act of 2021.” I recognize that the Committee on Ways and Means has a jurisdictional interest in H.R. 5274, and I appreciate your effort to allow this bill to be considered on the House floor.

I concur with you that forgoing action on the bill does not in any way prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation.

I will include our letters on H.R. 5274 in the Committee report on this measure and in the *Congressional Record* during floor consideration of this bill. I look forward to working with you on this legislation and other matters of great importance to this Nation.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

CONGRESSIONAL BUDGET OFFICE ESTIMATE NEW BUDGET
AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 5274 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 5274 is to ensure CBP personnel are provided training on the use of containment devices to protect against accidental synthetic exposure to opioids and other potentially lethal substances. H.R. 5274 also requires the CBP Commissioner ensure that containment devices are available to CBP personnel at risk of secondary exposure to synthetic opioids.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 5274 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section states that the Act may be cited as the “Prevent Exposure to Narcotics and Toxics Act of 2021” or the “PREVENT ACT of 2021”.

Sec. 2. Providing training for U.S. Customs and Border Protection personnel on the use of containment devices to prevent secondary exposure to fentanyl and other potentially lethal substances

This section directs the CBP Commissioner to provide mandatory and recurrent training to CBP personnel on how to use containment devices to prevent secondary exposure to fentanyl and other potentially lethal substances. This section also requires the CBP Commissioner to ensure containment devices are available to all CBP officers, agents, other personnel, and canines at risk of accidental exposure to synthetic opioids.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

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**TITLE IV—BORDER, MARITIME, AND
TRANSPORTATION SECURITY**

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**Subtitle B—U.S. Customs and Border
Protection**

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SEC. 416. PROTECTION AGAINST POTENTIAL SYNTHETIC OPIOID EXPOSURE.

(a) **IN GENERAL.**—The Commissioner of U.S. Customs and Border Protection shall issue a policy that specifies effective protocols and procedures for the safe handling of potential synthetic opioids, including fentanyl, by U.S. Customs and Border Protection officers, agents, other personnel, and canines, and to reduce the risk of injury or death resulting from accidental exposure and enhance post-exposure management.

(b) **TRAINING.**—

(1) **IN GENERAL.**—Together with the issuance of the policy described in subsection (a), the Commissioner of U.S. Customs

and Border Protection shall require mandatory and recurrent training on the following:

(A) The potential risk of opioid exposure and safe handling procedures for potential synthetic opioids, including precautionary measures such as the use of personal protective equipment during such handling.

(B) How to access and administer opioid receptor antagonists, including naloxone, post-exposure to potential synthetic opioids.

(C) *How to use containment devices to prevent secondary exposure to fentanyl and other potentially lethal substances.*

(2) INTEGRATION.—The training described in paragraph (1) may be integrated into existing training under section 411(l) for U.S. Customs and Border Protection officers, agents, and other personnel.

(c) PERSONAL PROTECTIVE EQUIPMENT AND OPIOID RECEPTOR ANTAGONISTS.—Together with the issuance of the policy described in subsection (a), the Commissioner of U.S. Customs and Border Protection shall ensure the availability of personal protective equipment [and], opioid receptor antagonists, including naloxone, *and containment devices* to all U.S. Customs and Border Protection officers, agents, other personnel, and canines at risk of accidental exposure to synthetic opioids.

(d) OVERSIGHT.—To ensure effectiveness of the policy described in subsection (a)—

(1) the Commissioner of U.S. Customs and Border Protection shall regularly monitor the efficacy of the implementation of such policy and adjust protocols and procedures, as necessary; and

(2) the Inspector General of the Department shall audit compliance with the requirements of this section not less than once during the 3-year period after the date of the enactment of this section.

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