

HALT ALL LETHAL TRAFFICKING OF FENTANYL (HALT) ACT

SECTION BY SECTION:

Section 1. Short title.

This Act may be cited as the “Halt All Lethal Trafficking of Fentanyl Act” or the “HALT Fentanyl Act”.

Sec. 2. Class Scheduling of Fentanyl-Related Substances

This section amends the Controlled Substances Act, 21 U.S.C. § 812(c), to list fentanyl-related substances as Schedule I controlled substances.ⁱ

The bill would define “fentanyl-related substance” as any substance that is structurally related to fentanyl by one or more listed modifications.ⁱⁱ The targeted language is will capture potential modifications to the fentanyl molecule by transnational criminal organizations to escape criminal listing.ⁱⁱⁱ This language is identical to current law under temporary class scheduling of fentanyl-related substances.^{iv}

Additional substances that qualify as fentanyl-related substances may be included by the Attorney General.^v

Licit fentanyl remains listed on Schedule II due to its currently-accepted medical use.^{vi}

Sec. 3. Registration Requirements Related to Research

The bill would establish a new, streamlined registration process for Schedule I research that is funded by the Department of Health and Human Services, the Department of Veterans Affairs, or under an Investigative New Drug (IND) exemption from the Food and Drug Administration.

The bill would make several other changes to registration requirements for conducting research with controlled substances, including permitting a single registration for related research sites in certain circumstances, waiving the requirement for a new inspection in certain situations, and allowing a registered researcher to perform certain manufacturing activities with small quantities of a substance without obtaining a manufacturing registration.

Sec. 4. Technical Correction on Controlled Substances Dispensing

Would adjust code citations to reflect current law.

Sec. 5. Rulemaking

The Attorney General would be required to issue interim final rules within 6 months of enactment, with a final rule issued after comment and hearing.

Sec. 6. Penalties

This section would amend certain drug sentencing provisions to clarify that quantity-based mandatory minimum prison sentences that apply to certain offenses involving analogues of fentanyl also apply to offenses involving "fentanyl-related substance[s]." ^{vii} ^{viii}

Sec. 7. Applicability; Other Matters

This section clarifies that the provisions of this bill would apply prior to the implementation of the final rule.

It also provides a rule of construction and sense of Congress recognizing the current application of mandatory minimums to fentanyl-related substance prosecutions prior to enactment of this bill.

ⁱ A Schedule I controlled substance is a drug, substance, or chemical that has a high potential for abuse, has no currently accepted medical value, has a lack of accepted safety for use of the drug or other substance under medical supervision, and is therefore subject to regulatory controls and administrative, civil, and criminal penalties under the Controlled Substances Act. *See* 21 U.S.C. § 812(b)(1).

ⁱⁱ Sec.2, “(e)(2)By replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle; (B) By substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups; By substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups; (D) By replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; (E) By replacement of the N-propionyl group with another acyl group.”

ⁱⁱⁱ Westlake, Timothy. “Statement before the House Judiciary Subcommittee on Crime and Federal Government Surveillance,” March 1, 2023, https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/Westlake_Testimony.pdf, *citing* Van Linn, Michael. “Statement before the US Sentencing Commission,” December 5, 2017. <https://www.ussc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20171205/Van-Linn.pdf>.

^{iv} 21 CFR § 1308.11(h)(30)(i).

^v Sec.2, “(e)(4)(A) The Attorney General may by order publish in the Federal Register a list of substances that satisfy the definition of the term ‘fentanyl-related substance’ in paragraph (2).”

^{vi} Sec.2, “(e) (1) *Unless specifically exempted or unless listed in another schedule* [emphasis added], any material, compound, mixture, or preparation which contains any quantity of a fentanyl-related substance, or which contains the salts, isomers, and salts of isomers of a fentanyl-related substance whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.”

^{vii} 21 U.S.C. § 841(b)(1)(A)(vi) and (b)(1)(B)(vi); 21 U.S.C. § 960(b)(1)(F) and 960(b)(2)(F).

^{viii} Courts have consistently held that fentanyl-related substances under the temporary scheduling order already qualify for federal quantity-based mandatory minimums applicable to fentanyl analogues. *See* *United States v. McCray*, 7 F.4th 40, 49, (2d Cir. 2021), *cert. denied* 142 S. Ct. 1373 (2022); *United States v. Johnson*, 47 F.4th 535, 543, (7th Cir. 2022), *cert. denied* 143 S. Ct. 813 (2023).