

116TH CONGRESS  
2D SESSION

# S. 3201

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2020

Referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, 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

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## 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:

JULIE E. ADAMS,

*Secretary.*