

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5788  
OFFERED BY MR. BRADY OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Securing the International Mail Against Opioids Act of  
4 2018”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Customs fees.
- Sec. 3. Mandatory advance electronic information for postal shipments.
- Sec. 4. International postal agreements.
- Sec. 5. Cost recoupment.
- Sec. 6. Development of technology to detect illicit narcotics.
- Sec. 7. Effective date; regulations.

**7 SEC. 2. CUSTOMS FEES.**

8 (a) IN GENERAL.—Section 13031(b)(9) of the Con-  
9 solidated Omnibus Budget Reconciliation Act of 1985 (19  
10 U.S.C. 58c(b)(9)) is amended by adding at the end the  
11 following:

12 “(D)(i) With respect to the processing of items  
13 that are sent to the United States through the inter-  
14 national postal network by ‘Inbound Express Mail

1 service' or 'Inbound EMS' (as that service is de-  
2 scribed in the mail classification schedule referred to  
3 in section 3631 of title 39, United States Code), the  
4 following payments are required:

5 “(I) \$1 per Inbound EMS item.

6 “(II) If an Inbound EMS item is formally  
7 entered, the fee provided for under subsection  
8 (a)(9), if applicable.

9 “(ii) Notwithstanding section 451 of the Tariff  
10 Act of 1930 (19 U.S.C. 1451), the payments re-  
11 quired by clause (i), as allocated pursuant to clause  
12 (iii)(I), shall be the only payments required for reim-  
13 bursement of U.S. Customs and Border Protection  
14 for customs services provided in connection with the  
15 processing of an Inbound EMS item.

16 “(iii)(I) The payments required by clause (i)  
17 shall be allocated as follows:

18 “(aa) 50 percent of the amount of the pay-  
19 ments shall be paid on a quarterly basis by the  
20 United States Postal Service to the Commis-  
21 sioner of U.S. Customs and Border Protection  
22 in accordance with regulations prescribed by the  
23 Secretary of the Treasury to reimburse U.S.  
24 Customs and Border Protection for customs

1 services provided in connection with the proc-  
2 essing of Inbound EMS items.

3 “(bb) 50 percent of the amount of the pay-  
4 ments shall be retained by the Postal Service to  
5 reimburse the Postal Service for services pro-  
6 vided in connection with the customs processing  
7 of Inbound EMS items.

8 “(II) Payments received by U.S. Customs and  
9 Border Protection under subclause (I)(aa) shall, in  
10 accordance with section 524 of the Tariff Act of  
11 1930 (19 U.S.C. 1524), be deposited in the Customs  
12 User Fee Account and used to directly reimburse  
13 each appropriation for the amount paid out of that  
14 appropriation for the costs incurred in providing  
15 services to international mail facilities. Amounts de-  
16 posited in accordance with the preceding sentence  
17 shall be available until expended for the provision of  
18 such services.

19 “(III) Payments retained by the Postal Service  
20 under subclause (I)(bb) shall be used to directly re-  
21 imburse the Postal Service for the costs incurred in  
22 providing services in connection with the customs  
23 processing of Inbound EMS items.

24 “(iv) Beginning in fiscal year 2021, the Sec-  
25 retary, in consultation with the Postmaster General,

1       may adjust, not more frequently than once each fis-  
2       cal year, the amount described in clause (i)(I) to an  
3       amount commensurate with the costs of services pro-  
4       vided in connection with the customs processing of  
5       Inbound EMS items, consistent with the obligations  
6       of the United States under international agree-  
7       ments.”.

8       (b) CONFORMING AMENDMENTS.—Section 13031(a)  
9       of the Consolidated Omnibus Budget Reconciliation Act  
10      of 1985 (19 U.S.C. 58c(a)) is amended—

11           (1) in paragraph (6), by inserting “(other than  
12      an item subject to a fee under subsection  
13      (b)(9)(D))” after “customs officer”; and

14           (2) in paragraph (10)—

15                (A) in subparagraph (C), in the matter  
16      preceding clause (i), by inserting “(other than  
17      Inbound EMS items described in subsection  
18      (b)(9)(D))” after “release”; and

19                (B) in the flush at the end, by inserting  
20      “or of Inbound EMS items described in sub-  
21      section (b)(9)(D),” after “(C),”.

22      (c) EFFECTIVE DATE.—The amendments made by  
23      this section shall take effect on January 1, 2020.

1 **SEC. 3. MANDATORY ADVANCE ELECTRONIC INFORMATION**  
2 **FOR POSTAL SHIPMENTS.**

3 (a) MANDATORY ADVANCE ELECTRONIC INFORMA-  
4 TION.—

5 (1) IN GENERAL.—Section 343(a)(3)(K) of the  
6 Trade Act of 2002 (Public Law 107–210; 19 U.S.C.  
7 2071 note) is amended to read as follows:

8 “(K)(i) The Secretary, with the concur-  
9 rence of the Secretary of State, shall prescribe  
10 regulations requiring the United States Postal  
11 Service to transmit the information described in  
12 paragraphs (1) and (2) to the Commissioner of  
13 U.S. Customs and Border Protection for inter-  
14 national mail shipments by the Postal Service  
15 (including shipments to the Postal Service from  
16 foreign postal operators that are transported by  
17 private carrier) consistent with the require-  
18 ments of this subparagraph.

19 “(ii) In prescribing regulations under  
20 clause (i), the Secretary shall impose require-  
21 ments for the transmission to the Commissioner  
22 of information described in paragraphs (1) and  
23 (2) for mail shipments described in clause (i)  
24 that are comparable to the requirements for the  
25 transmission of such information imposed on  
26 similar non-mail shipments of cargo, taking into

1 account the parameters set forth in subpara-  
2 graphs (A) through (J).

3 “(iii) The regulations prescribed under  
4 clause (i) shall require the transmission of the  
5 information described in paragraphs (1) and (2)  
6 with respect to a shipment as soon as prac-  
7 ticable in relation to the transportation of the  
8 shipment, consistent with subparagraph (H).

9 “(iv) Regulations prescribed under clause  
10 (i) shall allow for the requirements for the  
11 transmission to the Commissioner of informa-  
12 tion described in paragraphs (1) and (2) for  
13 mail shipments described in clause (i) to be im-  
14 plemented in phases, as appropriate, by—

15 “(I) setting incremental targets for in-  
16 creasing the percentage of such shipments  
17 for which information is required to be  
18 transmitted to the Commissioner; and

19 “(II) taking into consideration—

20 “(aa) the risk posed by such  
21 shipments;

22 “(bb) the volume of mail shipped  
23 to the United States by or through a  
24 particular country; and

1                   “(cc) the capacities of foreign  
2                   postal operators to provide that infor-  
3                   mation to the Postal Service.

4                   “(v)(I) Notwithstanding clause (iv) and ex-  
5                   cept as provided in subclause (II), the Postal  
6                   Service shall, not later than December 31,  
7                   2018, arrange for the transmission to the Com-  
8                   missioner of the information described in para-  
9                   graphs (1) and (2) for not less than 70 percent  
10                  of the aggregate number of mail shipments de-  
11                  scribed in clause (i).

12                  “(II)(aa) The requirements of subclause  
13                  (I) may be waived for a period of not more than  
14                  180 days if, not later than December 31,  
15                  2018—

16                  “(AA) the Secretary and the Post-  
17                  master General, with the concurrence of  
18                  the Secretary of State, determine that  
19                  meeting those requirements is not feasible  
20                  because of the lack of capacity of foreign  
21                  postal operators to provide the Postal  
22                  Service with the information described in  
23                  paragraphs (1) and (2);

24                  “(BB) the Secretary and the Post-  
25                  master General, with the concurrence of

1 the Secretary of State, determine that  
2 meeting those requirements is not feasible  
3 because of extraordinary reasons other  
4 than lack of capacity of foreign postal op-  
5 erators that are outside the control of the  
6 Postal Service; or

7 “(CC) the Secretary of State deter-  
8 mines that such a waiver is in the national  
9 security interests of the United States.

10 “(bb) A waiver under item (aa) may be re-  
11 newed for one additional period of not more  
12 than 180 days if a determination described in  
13 item (aa) is made for that period.

14 “(III) If the requirements of subclause (I)  
15 are not met, the Comptroller General of the  
16 United States shall submit to the appropriate  
17 congressional committees, not later than Janu-  
18 ary 31, 2020, a report—

19 “(aa) assessing the reasons for the  
20 failure to meet those requirements; and

21 “(bb) identifying recommendations to  
22 improve the collection by the Postal Serv-  
23 ice of the information described in para-  
24 graphs (1) and (2).



1           “(vi)(I) Notwithstanding clause (iv) and  
2           except as provided in subclause (II), the Postal  
3           Service shall, not later than December 31,  
4           2022, arrange for the transmission to the Com-  
5           missioner of the information described in para-  
6           graphs (1) and (2) for not less than 95 percent  
7           of the aggregate number of mail shipments de-  
8           scribed in clause (i).

9           “(II) The requirements of subclause (I)  
10          may be waived for a period of not more than  
11          one year if, not later than December 31,  
12          2022—

13                 “(aa) the Secretary and the Post-  
14                 master General, with the concurrence of  
15                 the Secretary of State, determine that  
16                 meeting those requirements is not feasible  
17                 because of—

18                         “(AA) the lack of capacity of for-  
19                         eign postal operators to provide the  
20                         Postal Service with the information  
21                         described in paragraphs (1) and (2);  
22                         or

23                         “(BB) extraordinary reasons  
24                         other than lack of capacity of foreign

1 postal operators that are outside the  
2 control of the Postal Service; or

3 “(bb) the Secretary of State deter-  
4 mines that such a waiver is in the national  
5 security interests of the United States.

6 “(vii) Not later than 15 days before mak-  
7 ing a determination under clause (v) or (vi)  
8 that meeting the requirements of that clause is  
9 not feasible, the Secretary and the Postmaster  
10 General shall submit to the appropriate con-  
11 gressional committees a notification of the de-  
12 termination. The notification shall include—

13 “(I) in the case of a determination  
14 under clause (v)(II)(aa)(AA) or  
15 (vi)(II)(aa)(AA)—

16 “(aa) a list of which foreign post-  
17 al operators lack the capacity to pro-  
18 vide the information described in  
19 paragraphs (1) and (2) to the Postal  
20 Service;

21 “(bb) a description of the efforts  
22 by the Postal Service made to obtain  
23 that information from those operators;  
24 and

1                   “(cc) a plan for obtaining that  
2                   information from those operators; and

3                   “(II) in the case of a determination  
4                   under clause (v)(II)(aa)(BB) or  
5                   (vi)(II)(aa)(BB)—

6                   “(aa) a description of the ex-  
7                   traordinary reasons outside the con-  
8                   trol of the Postal Service; and

9                   “(bb) a plan for obtaining the  
10                  transmission of information described  
11                  in paragraphs (1) and (2) as required  
12                  by clause (v) or (vi), as applicable.

13                  “(viii) The Secretary and the Postmaster  
14                  General may, in consultation with the Secretary  
15                  of State, as necessary, take all appropriate re-  
16                  medial measures necessary to ensure compli-  
17                  ance with regulations prescribed under clause  
18                  (i) and consistent with the obligations of the  
19                  United States under international agreements,  
20                  including refusal of shipments for which the in-  
21                  formation described in paragraphs (1) and (2)  
22                  is not transmitted as required under this sub-  
23                  paragraph.

24                  “(ix) Nothing in this subparagraph shall  
25                  be construed to limit the authority of the Sec-

1           retary to obtain information relating to inter-  
2           national mail shipments from private carriers or  
3           other appropriate parties.

4                   “(x) In this subparagraph, the term ‘ap-  
5           propriate congressional committees’ means—

6                           “(I) the Committee on Finance and  
7                           the Committee on Homeland Security and  
8                           Governmental Affairs of the Senate; and

9                           “(II) the Committee on Ways and  
10                           Means and the Committee on Oversight  
11                           and Government Reform of the House of  
12                           Representatives.”.

13                   (2) JOINT STRATEGIC PLAN ON MANDATORY  
14           ADVANCE INFORMATION.—Not later than 60 days  
15           after the date of the enactment of this Act, the Sec-  
16           retary of Homeland Security and the Postmaster  
17           General shall develop and submit to the appropriate  
18           congressional committees a joint strategic plan de-  
19           tailing specific performance measures for achiev-  
20           ing—

21                           (A) the transmission of information as re-  
22                           quired by section 343(a)(3)(K) of the Trade  
23                           Act of 2002, as amended by paragraph (1); and

24                           (B) the presentation by the Postal Service  
25                           to U.S. Customs and Border Protection of all

1 mail targeted by U.S. Customs and Border Pro-  
2 tection for inspection.

3 (b) CAPACITY BUILDING.—

4 (1) IN GENERAL.—Section 343(a) of the Trade  
5 Act of 2002 (Public Law 107–210; 19 U.S.C. 2071  
6 note) is amended by adding at the end the following:

7 “(5) CAPACITY BUILDING.—

8 “(A) IN GENERAL.—The Secretary, with  
9 the concurrence of the Secretary of State, and  
10 in coordination with the Postmaster General  
11 and the heads of other Federal agencies, as ap-  
12 propriate, may provide technical assistance,  
13 equipment, technology, and training to enhance  
14 the capacity of foreign postal operators—

15 “(i) to gather and provide the infor-  
16 mation required by paragraph (3)(K); and

17 “(ii) to otherwise gather and provide  
18 postal shipment information related to—

19 “(I) terrorism;

20 “(II) items the importation or in-  
21 troduction of which into the United  
22 States is prohibited or restricted, in-  
23 cluding controlled substances; and

24 “(III) such other concerns as the  
25 Secretary determines appropriate.

1           “(B) PROVISION OF EQUIPMENT AND  
2           TECHNOLOGY.—With respect to the provision of  
3           equipment and technology under subparagraph  
4           (A), the Secretary may lease, loan, provide, or  
5           otherwise assist in the deployment of such  
6           equipment and technology under such terms  
7           and conditions as the Secretary may prescribe,  
8           including nonreimbursable loans or the transfer  
9           of ownership of equipment and technology.”.

10          (2) JOINT STRATEGIC PLAN ON CAPACITY  
11          BUILDING.—Not later than one year after the date  
12          of the enactment of this Act, the Secretary of Home-  
13          land Security and the Postmaster General shall, in  
14          consultation with the Secretary of State, jointly de-  
15          velop and submit to the appropriate congressional  
16          committees a joint strategic plan—

17                 (A) detailing the extent to which U.S. Cus-  
18                 toms and Border Protection and the United  
19                 States Postal Service are engaged in capacity  
20                 building efforts under section 343(a)(5) of the  
21                 Trade Act of 2002, as added by paragraph (1);

22                 (B) describing plans for future capacity  
23                 building efforts; and

24                 (C) assessing how capacity building has in-  
25                 creased the ability of U.S. Customs and Border

1           Protection and the Postal Service to advance  
2           the goals of this Act and the amendments made  
3           by this Act.

4           (c) REPORT AND CONSULTATIONS BY SECRETARY OF  
5 HOMELAND SECURITY AND POSTMASTER GENERAL.—

6           (1) REPORT.—Not later than 180 days after  
7           the date of the enactment of this Act, and annually  
8           thereafter until 3 years after the Postmaster Gen-  
9           eral has met the requirement under clause (vi) of  
10          subparagraph (K) of section 343(a)(3) of the Trade  
11          Act of 2002, as amended by subsection (a)(1), the  
12          Secretary of Homeland Security and the Postmaster  
13          General shall, in consultation with the Secretary of  
14          State, jointly submit to the appropriate congres-  
15          sional committees a report on compliance with that  
16          subparagraph that includes the following:

17                   (A) An assessment of the status of the reg-  
18                   ulations required to be promulgated under that  
19                   subparagraph.

20                   (B) An update regarding new and existing  
21                   agreements reached with foreign postal opera-  
22                   tors for the transmission of the information re-  
23                   quired by that subparagraph.

24                   (C) A summary of deliberations between  
25                   the United States Postal Service and foreign

1 postal operators with respect to issues relating  
2 to the transmission of that information.

3 (D) A summary of the progress made in  
4 achieving the transmission of that information  
5 for the percentage of shipments required by  
6 that subparagraph.

7 (E) An assessment of the quality of that  
8 information being received by foreign postal op-  
9 erators, as determined by the Secretary of  
10 Homeland Security, and actions taken to im-  
11 prove the quality of that information.

12 (F) A summary of policies established by  
13 the Universal Postal Union that may affect the  
14 ability of the Postmaster General to obtain the  
15 transmission of that information.

16 (G) A summary of the use of technology to  
17 detect illicit synthetic opioids and other illegal  
18 substances in international mail parcels and  
19 planned acquisitions and advancements in such  
20 technology.

21 (H) Such other information as the Sec-  
22 retary of Homeland Security and the Post-  
23 master General consider appropriate with re-  
24 spect to obtaining the transmission of informa-  
25 tion required by that subparagraph.



1           (2) CONSULTATIONS.—Not later than 180 days  
2 after the date of the enactment of this Act, and  
3 every 180 days thereafter until the Postmaster Gen-  
4 eral has met the requirement under clause (vi) of  
5 section 343(a)(3)(K) of the Trade Act of 2002, as  
6 amended by subsection (a)(1), to arrange for the  
7 transmission of information with respect to not less  
8 than 95 percent of the aggregate number of mail  
9 shipments described in clause (i) of that section, the  
10 Secretary of Homeland Security and the Postmaster  
11 General shall provide briefings to the appropriate  
12 congressional committees on the progress made in  
13 achieving the transmission of that information for  
14 that percentage of shipments.

15           (d) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
16 PORT.—Not later than December 31, 2020, the Comp-  
17 troller General of the United States shall submit to the  
18 appropriate congressional committees a report—

19           (1) assessing the progress of the United States  
20 Postal Service in achieving the transmission of the  
21 information required by subparagraph (K) of section  
22 343(a)(3) of the Trade Act of 2002, as amended by  
23 subsection (a)(1), for the percentage of shipments  
24 required by that subparagraph;

1           (2) assessing the quality of the information re-  
2           ceived from foreign postal operators for targeting  
3           purposes;

4           (3) assessing the specific percentage of targeted  
5           mail presented by the Postal Service to U.S. Cus-  
6           toms and Border Protection for inspection;

7           (4) describing the costs of collecting the infor-  
8           mation required by such subparagraph (K) from for-  
9           eign postal operators and the costs of implementing  
10          the use of that information;

11          (5) assessing the benefits of receiving that in-  
12          formation with respect to international mail ship-  
13          ments;

14          (6) assessing the feasibility of assessing a cus-  
15          toms fee under section 13031(b)(9) of the Consoli-  
16          dated Omnibus Budget Reconciliation Act of 1985,  
17          as amended by section 2, on international mail ship-  
18          ments other than Inbound Express Mail service in a  
19          manner consistent with the obligations of the United  
20          States under international agreements; and

21          (7) identifying recommendations, including rec-  
22          ommendations for legislation, to improve the compli-  
23          ance of the Postal Service with such subparagraph  
24          (K), including an assessment of whether the detec-

1           tion of illicit synthetic opioids in the international  
2           mail would be improved by—

3                   (A) requiring the Postal Service to serve as  
4                   the consignee for international mail shipments  
5                   containing goods; or

6                   (B) designating a customs broker to act as  
7                   an importer of record for international mail  
8                   shipments containing goods.

9           (e) **TECHNICAL CORRECTION.**—Section 343 of the  
10 Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071  
11 note) is amended in the section heading by striking “**AD-**  
12 **VANCED**” and inserting “**ADVANCE**”.

13           (f) **APPROPRIATE CONGRESSIONAL COMMITTEES DE-**  
14 **FINED.**—In this section, the term “appropriate congres-  
15 sional committees” means—

16                   (1) the Committee on Finance and the Com-  
17                   mittee on Homeland Security and Governmental Af-  
18                   fairs of the Senate; and

19                   (2) the Committee on Ways and Means and the  
20                   Committee on Oversight and Government Reform of  
21                   the House of Representatives.

22 **SEC. 4. INTERNATIONAL POSTAL AGREEMENTS.**

23           (a) **EXISTING AGREEMENTS.**—Any regulations pre-  
24 scribed under section 343(a)(3)(K) of the Trade Act of  
25 2002, as amended by section 3(a)(1), shall be consistent

1 with the obligations of the United States under inter-  
2 national agreements.

3 (b) FUTURE AGREEMENTS.—

4 (1) CONSULTATIONS.—Before entering into, on  
5 or after the date of the enactment of this Act, any  
6 postal treaty, convention, or other international  
7 agreement related to international postal services, or  
8 any amendment to such an agreement, that could re-  
9 strict the ability of the United States to secure the  
10 provision of advance electronic information by for-  
11 eign postal operators, the Secretary of State should  
12 consult with the appropriate congressional commit-  
13 tees (as defined in section 3(f)).

14 (2) EXPEDITED NEGOTIATION OF NEW AGREE-  
15 MENT.—To the extent that any new postal treaty,  
16 convention, or other international agreement related  
17 to international postal services is necessary to secure  
18 the provision of advance electronic information by  
19 foreign postal operators as required by regulations  
20 prescribed under section 343(a)(3)(K) of the Trade  
21 Act of 2002, as amended by section 3(a)(1), the Sec-  
22 retary of State should expeditiously conclude such  
23 an agreement.

1 **SEC. 5. COST RECOUPMENT.**

2 (a) IN GENERAL.—The United States Postal Service  
3 shall, to the extent practicable and otherwise recoverable  
4 by law, ensure that all costs associated with complying  
5 with this Act and amendments made by this Act are  
6 charged directly to foreign shippers or foreign postal oper-  
7 ators.

8 (b) COSTS NOT CONSIDERED REVENUE.—The recov-  
9 ery of costs under subsection (a) shall not be deemed rev-  
10 enue for purposes of subchapter I and II of chapter 36  
11 of title 39, United States Code, or regulations prescribed  
12 under that chapter.

13 **SEC. 6. DEVELOPMENT OF TECHNOLOGY TO DETECT IL-**  
14 **LICIT NARCOTICS.**

15 (a) IN GENERAL.—The Postmaster General and the  
16 Commissioner of U.S. Customs and Border Protection, in  
17 coordination with the heads of other agencies as appro-  
18 priate, shall collaborate to identify and develop technology  
19 for the detection of illicit fentanyl, other synthetic opioids,  
20 and other narcotics and psychoactive substances entering  
21 the United States by mail.

22 (b) OUTREACH TO PRIVATE SECTOR.—The Post-  
23 master General and the Commissioner shall conduct out-  
24 reach to private sector entities to gather information re-  
25 garding the current state of technology to identify areas  
26 for innovation relating to the detection of illicit fentanyl,

1 other synthetic opioids, and other narcotics and  
2 psychoactive substances entering the United States.

3 **SEC. 7. EFFECTIVE DATE; REGULATIONS.**

4 (a) EFFECTIVE DATE.—This Act and the amend-  
5 ments made by this Act (other than the amendments made  
6 by section 2) shall take effect on the date of the enactment  
7 of this Act.

8 (b) REGULATIONS.—Not later than one year after the  
9 date of the enactment of this Act, such regulations as are  
10 necessary to carry out this Act and the amendments made  
11 by this Act shall be prescribed.

