

118TH CONGRESS
1ST SESSION

H. R. 1597

To amend the Controlled Substances Act with respect to a penalty for illicit fentanyl and fentanyl-related substances.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2023

Mr. NEWHOUSE (for himself and Mr. MOORE of Alabama) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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

A BILL

To amend the Controlled Substances Act with respect to a penalty for illicit fentanyl and fentanyl-related substances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “William and James
5 Wonacott Act of 2023”.

1 **SEC. 2. ENHANCED PENALTY FOR ILLICIT FENTANYL AND**
2 **FENTANYL-RELATED SUBSTANCES.**

3 Part D of title II of the Controlled Substances Act
4 (21 U.S.C. 841) is amended by adding after section 404
5 the following new section:

6 **“SEC. 404A. PENALTY WITH RESPECT TO ILLICIT FENTANYL**
7 **AND FENTANYL-RELATED SUBSTANCES.**

8 “(a) OFFENSE.—It shall be unlawful for any person
9 to sell, give, or distribute any substance that contains two
10 milligrams or more of—

11 “(1) illicit fentanyl; or

12 “(2) a fentanyl-related substance,

13 to another person without such person’s knowledge that
14 the substance sold, given, or distributed contains illicit
15 fentanyl or fentanyl-related substance.

16 “(b) PENALTY.—Notwithstanding any other provi-
17 sion of law, and subject to subsection (c), any person who
18 violates subsection (a) and such violation—

19 “(1) does not result in death, shall be impris-
20 oned not less than 20 years and may be imprisoned
21 for life; or

22 “(2) results in death, shall be imprisoned not
23 less than 25 years and may be imprisoned for life.

24 “(c) EXCEPTION.—Notwithstanding any other provi-
25 sion of law, this section shall not apply if—

1 “(1) the individual for which fentanyl or
2 fentanyl-related substance was sold, given, or dis-
3 tributed received such fentanyl knowingly;

4 “(2) the individual for which fentanyl or
5 fentanyl-related substance was sold, given, or dis-
6 tributed received such fentanyl for a medicinal pur-
7 pose; or

8 “(3) the individual obtained such fentanyl or
9 fentanyl-related substance pursuant to a valid pre-
10 scription from a licensed medical practitioner or li-
11 censed pharmacist, while they were acting in the
12 course of their professional capacity or as otherwise
13 authorized by this title or title III.

14 “(d) ILLICIT FENTANYL DEFINED.—In this section,
15 the term ‘illicit fentanyl’ means fentanyl and any analogue
16 or precursor thereof that is sold, given, distributed, manu-
17 factured, or possessed, in violation of section 401, 406,
18 or 416 of this Act.

19 “(e) FENTANYL-RELATED SUBSTANCE DEFINED.—
20 In this section, the term ‘fentanyl-related substance’ shall
21 have the meaning given such term in section
22 1308.11(h)(30)(i) of title 21, Code of Federal Regulations
23 and shall include any substance not otherwise listed under
24 another Administration Controlled Substance Code Num-
25 ber, and for which no exemption or approval is in effect

1 under section 505 of the Federal Food, Drug, and Cos-
2 metic Act (21 U.S.C. 355), that is structurally related to
3 fentanyl and its analogues, isomers, esters, ethers, salts,
4 and salts of isomers, including—

5 “(1) replacement of the phenyl portion of the
6 phenethyl group by any monocycle, whether or not
7 further substituted in or on the monocycle;

8 “(2) substitution in or on the phenethyl group
9 with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl,
10 amino, or nitro groups;

11 “(3) substitution in or on the piperidine ring
12 with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl,
13 halo, haloalkyl, amino, or nitro groups;

14 “(4) replacement of the aniline ring with any
15 aromatic monocycle whether or not further sub-
16 stituted in or on the aromatic monocycle; or

17 “(5) replacement of the N-propionyl group by
18 another acyl group.”.

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