

118TH CONGRESS
1ST SESSION

S. 2484

To ensure that States do not prohibit an individual from obtaining, possessing, distributing, or using life-saving drug testing technologies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2023

Mr. BOOKER (for himself, Mr. WELCH, Ms. HIRONO, Mr. BLUMENTHAL, Mr. OSSOFF, Mrs. FEINSTEIN, Mr. PADILLA, Mr. WHITEHOUSE, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure that States do not prohibit an individual from obtaining, possessing, distributing, or using life-saving drug testing technologies, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expanding Nationwide
5 Access to Test Strips Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) According to the Centers for Disease Con-
2 trol and Prevention, over 109,000 people in the
3 United States died from drug overdoses in 2022,
4 with 69 percent of those deaths involving synthetic
5 opioids like fentanyl.

6 (2) According to the Centers for Disease Con-
7 trol and Prevention, by 2021, the rate of drug over-
8 dose deaths involving xylazine was 35 times higher
9 than the 2018 rate.

10 (3) One significant contributing factor to the
11 increase in drug overdoses is individuals are often
12 unaware their drugs are laced with synthetic opioids
13 and other dangerous substances.

14 (4) In 2021, 92 percent of drug overdose
15 deaths in the United States were unintentional.

16 (5) Drug test strips play a critical role in sav-
17 ing lives by effectively detecting the presence of
18 fentanyl, xylazine, and other adulterants in various
19 drugs and forms including pills, powder, and
20 injectables.

21 (6) Studies show that individuals with access to
22 testing strips regularly use them before drug con-
23 sumption, leading to a higher likelihood of modifying
24 their drug use behavior or abstaining from drug use,
25 thereby reducing the risk of drug overdoses.

1 (7) In 2021, the Centers for Disease Control
2 and Prevention and the Substance Abuse and Men-
3 tal Health Services Administration announced the
4 authorization of Federal funding to acquire fentanyl
5 strips to address this crisis.

6 (8) As of the date of enactment of this Act, ap-
7 proximately 36 States and the District of Columbia
8 have legalized the use of fentanyl test strips. How-
9 ever, in fewer than a dozen States, fentanyl test
10 strips are still categorized as drug paraphernalia,
11 limiting access to these life-saving tools for many in-
12 dividuals.

13 (9) While many States have decriminalized
14 fentanyl strips, the criminalization of xylazine strips
15 remains prevalent in several States, even as xylazine
16 poses an emerging threat.

17 (10) Ensuring access to these test strips is jus-
18 tified under congressional regulation of interstate
19 commerce, as these strips are consumer products
20 that involve economic transactions, including the
21 shipment of goods, provision of services, and pur-
22 chases across State lines.

23 **SEC. 3. ACCESS TO DRUG TESTING TECHNOLOGIES.**

24 (a) DEFINITION.—In this section, the term “life-sav-
25 ing drug testing technologies” means devices, including

1 test strips, that can detect the presence of fentanyl,
2 xylazine, or other adulterants in drug samples prior to use.

3 (b) ACCESS TO DRUG TESTING TECHNOLOGIES.—A

4 State—

5 (1) shall not prohibit an individual from obtain-
6 ing, possessing, distributing, or using life-saving
7 drug testing technologies; and

8 (2) shall not prosecute an individual solely for
9 obtaining, possessing, distributing, or using life-sav-
10 ing drug testing technologies.

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