II

115TH CONGRESS
2D SESSION

S. 2535

To amend the Controlled Substances Act to strengthen Drug Enforcement Administration discretion in setting opioid quotas.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2018

Mr. DURBIN (for himself, Mr. KENNEDY, Mr. GRASSLEY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend the Controlled Substances Act to strengthen Drug Enforcement Administration discretion in setting opioid quotas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Opioid Quota Reform Act".

SEC. 2. STRENGTHENING CONSIDERATIONS FOR DEA OPIOID QUOTAS.

Section 306 of the Controlled Substances Act (21 U.S.C. 826) is amended—

(1) in the last sentence of subsection (a), by striking '' and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance''; and

(2) by adding at the end the following:

''(i)(1) In fixing and adjusting production and manufacturing quotas under this section for fentanyl, oxycodone, hydrocodone, oxymorphone, and hydromorphone, the Attorney General shall consider the impact of the production and manufacturing quotas on overall public health and rates of diversion, abuse, and overdose deaths related to these controlled substances in the United States. Any of the considerations in this subsection or in subsection (a) may be used to determine changes to levels of such production and manufacturing quotas in a given year.

''(2)(A) For any year in which the approved production quota for fentanyl, oxycodone, hydrocodone, oxymorphone, or hydromorphone is higher than the approved production quota for the substance in the previous year, the Attorney General shall include in its final order an explanation of why the public health benefits of increasing such quota outweigh the consequences of having an increased volume of such substance available for sale, and potential diversion, in the United States.

''(B) Not later than 1 year after the date of enactment of this subsection and every year thereafter, the Attorney General shall provide to the Caucus on International Narcotics Control, Committee on the Judiciary, Committee on Health, Education, Labor, and Pensions, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Energy and Commerce, and Committee on Appropriations of the House of Representatives, the following information with regard to each of the substances described in subparagraph (A):

''(i) An anonymized count of the total number of manufacturers issued individual manufacturing quotas that year for that substance.

''(ii) A count of how many such manufacturers were issued an approved manufacturing quota that was higher than the quota issued to that manufacturer for that substance in the previous year.

''(3) Not later than 180 days after the date of enactment of this subsection, the Attorney General shall submit to Congress a report on how the Attorney General will ensure that the annual process of fixing and adjusting production and manufacturing quotas under this section takes into consideration—

''(A) efforts to reduce the costs, injuries, and deaths associated with the diversion and abuse of prescription opioids and heroin, including changes in the accepted medical use of certain controlled substances; and

''(B) data collection and evaluation of the volume of controlled substances that are diverted and collected from approved drug collection receptacles, mail-back programs, and take-back events.''.

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