

115TH CONGRESS
2D SESSION

H. R. 7091

To stop the production of fentanyl and its trafficking into the United States
from the People’s Republic of China.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2018

Mr. SMITH of New Jersey (for himself, Mr. SUOZZI, Ms. ROS-LEHTINEN, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. POE of Texas, Mr. FLEISCHMANN, Mr. LANCE, Mr. MACARTHUR, Mr. LIPINSKI, Mr. CHABOT, and Mr. DONOVAN) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To stop the production of fentanyl and its trafficking into
the United States from the People’s Republic of China.

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 “Combating Illicit
5 Fentanyl Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) America’s overdose epidemic is spreading
9 geographically, is increasing across all demographic

1 groups and the sharp increase in drug overdose
2 deaths in the United States between 2015 to 2016
3 was fueled by a surge in illicit fentanyl, a highly po-
4 tent drug about 80 to 100 times as strong as mor-
5 phine by weight and is 30 to 40 times stronger than
6 heroin by weight, as well as fentanyl-related com-
7 pound analogue overdoses.

8 (2) Fentanyl began to appear on U.S. streets in
9 the early 2000s, in recent years it has become a
10 major international drug control issue as overdose
11 deaths from its abuse continue to rise, with a spike
12 beginning in 2013. Foreign-sourced fentanyl killed
13 more Americans in 2016 than all other illicit drugs,
14 and synthetic opioids such as fentanyl and tramadol
15 accounted for more than 29,000 U.S. drug overdose
16 deaths in 2017, according to provisional data from
17 the Centers for Disease Control and Prevention. Il-
18 licit fentanyl is not a diverged pharmaceutical prod-
19 uct, is illicitly manufactured, and is clandestinely
20 distributed and integrated into the illicit drug sup-
21 ply, usually sold as “heroin” in powder form, or as
22 counterfeit opioid or benzodiazepine pills.

23 (3) In Ocean County, New Jersey, based on
24 data from the Ocean County Prosecutor’s Office, in
25 2014 10 percent of all overdose deaths had fentanyl

1 in their systems, and by 2018 that number had risen
2 to 80 percent.

3 (4) The Drug Enforcement Administration re-
4 ports that of the illicit fentanyl class substances and
5 hundreds of other designer drugs it has identified,
6 “the vast majority . . . are manufactured in
7 China”. In 2018, a year-long congressional probe
8 found that illicit fentanyl could easily be bought on-
9 line from Chinese “labs” and mailed to the United
10 States due to gaps in oversight in the United States
11 Postal Service, and despite increased cooperation be-
12 tween United States and Chinese counter-narcotics
13 agencies, illicit fentanyl is still shipped to the United
14 States.

15 (5) According to written testimony submitted to
16 Congress by the RAND Corporation, regulatory ca-
17 pacity in China is inadequate to effectively police its
18 expansive pharmaceutical and chemical industries,
19 and according to the U.S.-China Economic and Se-
20 curity Review Commission, corrupt practices among
21 local officials limit the effectiveness of regulations
22 and allows criminal actors to facilitate the fentanyl
23 trade.

24 (6) In June 2018, \$1.7 million worth of Chi-
25 nese fentanyl was detected by counternarcotics

1 agents in a Philadelphia port during a routine in-
2 spection, China has publicly gone to great lengths to
3 shirk responsibility for illicit fentanyl emanating out
4 of the country, and in June 2018, Chinese official
5 Liu Yuejin blamed the crisis on the American peo-
6 ple, saying “When fewer and fewer Americans use
7 fentanyl, there would be no market for it”, ignoring
8 the Chinese supply of the illicit substance, and
9 China fails to effectively regulate precursor chemi-
10 cals, including fentanyl precursors.

11 (7) Fentanyl lacks a “street name”, indicating
12 that this is more of a supply than a demand issue
13 and its intentional use is far outweighed by non-in-
14 tentional use. On September 6, 2018, at a hearing
15 before the House Committee on Foreign Affairs
16 Subcommittee on Africa, Global Health, Global
17 Human Rights, and International Organizations, ex-
18 pert private witnesses from diverse professional and
19 academic backgrounds all concurred that China can
20 do more to stem the flow of fentanyl.

21 (8) According to the United Nations General
22 Assembly, the drug trade poses a threat to “develop-
23 ment, peace and security and human rights”, and
24 the United Nations Convention against
25 Transnational Organized Crime (the Palermo Con-

1 vention), a multilateral treaty against transnational
2 organized crime including in the realm of narcotics
3 signed and ratified by China which entered into
4 force in 2003, obligates States Parties to “ensure ef-
5 fective action by its authorities in the prevention, de-
6 tection and punishment of the corruption of public
7 officials”.

8 (9) Combating illicit fentanyl is a top priority
9 of the Trump Administration and the President has
10 called it “outrageous” that fentanyl comes from
11 China. The Trump Administration has both high-
12 lighted China’s role in the crisis and targeted Chi-
13 nese manufacturers and traffickers, and at an Au-
14 gust 16, 2018, cabinet meeting, President Trump di-
15 rected Attorney General Sessions to step up efforts
16 to stem inflows of fentanyl from China.

17 **SEC. 3. REPORT.**

18 (a) IN GENERAL.—Not later than 90 days after the
19 date of the enactment of this Act, and annually thereafter,
20 the Secretary of State and the Secretary of Treasury shall
21 jointly submit to the appropriate congressional committees
22 a report that identifies each person in the People’s Repub-
23 lic of China and Chinese government official involved in
24 the production of fentanyl and its trafficking into the
25 United States.

1 (b) FORM.—The report required by subsection (a)
2 shall be submitted in unclassified form, but may contain
3 a classified annex.

4 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
5 FINED.—In this section, the term “appropriate congres-
6 sional committees” means—

7 (1) the Committee on Foreign Affairs, the
8 Committee on Financial Services, and the Com-
9 mittee on Energy and Commerce of the House of
10 Representatives; and

11 (2) the Committee on Foreign Relations, the
12 Committee on Banking, Housing, and Urban Af-
13 fairs, the Committee on Commerce, Science, and
14 Transportation, and the Committee on Health, Edu-
15 cation, and Pensions of the Senate.

16 **SEC. 4. SENSE OF CONGRESS.**

17 It is the sense of Congress that—

18 (1) the President should impose financial sanc-
19 tions under the International Emergency Economic
20 Powers Act (50 U.S.C. 1701 et seq.) against each
21 person and government official identified in the re-
22 port required by section 3; and

23 (2) the President should impose sanctions
24 under section 1263(b) of the National Defense Au-
25 thorization Act for Fiscal Year 2017 (22 U.S.C.

1 2656 note) against each person and government offi-
2 cial identified in the report required by section 3
3 that meet the criteria under paragraph (3) or (4) of
4 section 1263(a) of such Act.

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