

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. FEIN-
STEIN) introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

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

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 “Opioid Quota Reform
5 Act”.

6 **SEC. 2. STRENGTHENING CONSIDERATIONS FOR DEA**
7 **OPIOID QUOTAS.**

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

1 (1) in the last sentence of subsection (a), by
2 striking “ and not in terms of individual pharma-
3 ceutical dosage forms prepared from or containing
4 such a controlled substance”; and

5 (2) by adding at the end the following:

6 “(i)(1) In fixing and adjusting production and manu-
7 facturing quotas under this section for fentanyl, oxycodone, hydrocodone, oxymorphone, and hydromorphone, the
8 Attorney General shall consider the impact of the produc-
9 tion and manufacturing quotas on overall public health
10 and rates of diversion, abuse, and overdose deaths related
11 to these controlled substances in the United States. Any
12 of the considerations in this subsection or in subsection
13 (a) may be used to determine changes to levels of such
14 production and manufacturing quotas in a given year.

16 “(2)(A) For any year in which the approved produc-
17 tion quota for fentanyl, oxycodone, hydrocodone, oxymor-
18 phone, or hydromorphone is higher than the approved pro-
19 duction quota for the substance in the previous year, the
20 Attorney General shall include in its final order an expla-
21 nation of why the public health benefits of increasing such
22 quota outweigh the consequences of having an increased
23 volume of such substance available for sale, and potential
24 diversion, in the United States.

1 “(B) Not later than 1 year after the date of enact-
2 ment of this subsection and every year thereafter, the At-
3 torney General shall provide to the Caucus on Inter-
4 national Narcotics Control, Committee on the Judiciary,
5 Committee on Health, Education, Labor, and Pensions,
6 and Committee on Appropriations of the Senate and the
7 Committee on the Judiciary, Committee on Energy and
8 Commerce, and Committee on Appropriations of the
9 House of Representatives, the following information with
10 regard to each of the substances described in subpara-
11 graph (A):

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

15 “(ii) A count of how many such manufacturers
16 were issued an approved manufacturing quota that
17 was higher than the quota issued to that manufac-
18 turer for that substance in the previous year.

19 “(3) Not later than 180 days after the date of enact-
20 ment of this subsection, the Attorney General shall submit
21 to Congress a report on how the Attorney General will
22 ensure that the annual process of fixing and adjusting pro-
23 duction and manufacturing quotas under this section
24 takes into consideration—

1 “(A) efforts to reduce the costs, injuries, and
2 deaths associated with the diversion and abuse of
3 prescription opioids and heroin, including changes in
4 the accepted medical use of certain controlled sub-
5 stances; and

6 “(B) data collection and evaluation of the vol-
7 ume of controlled substances that are diverted and
8 collected from approved drug collection receptacles,
9 mail-back programs, and take-back events.”.

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