

118TH CONGRESS
1ST SESSION

S. 1271

To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2023

Mr. SCOTT of South Carolina (for himself, Mr. BROWN, Mr. WICKER, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fentanyl Eradication and Narcotics Deterrence Off
6 Fentanyl Act” or the “FEND Off Fentanyl Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Sense of Congress.

Sec. 3. Definitions.

TITLE I—SANCTIONS MATTERS

Subtitle A—Sanctions in Response to National Emergency Relating to Fentanyl Trafficking

Sec. 101. Finding; policy.

Sec. 102. Use of national emergency authorities; reporting.

Sec. 103. Codification of Executive order imposing sanctions with respect to foreign persons involved in global illicit drug trade.

Sec. 104. Imposition of sanctions with respect to fentanyl trafficking by transnational criminal organizations.

Sec. 105. Penalties; waivers; exceptions.

Sec. 106. Treatment of blocked property of transnational criminal organizations.

Subtitle B—Other Matters

Sec. 111. Eight-year statute of limitations for violations of sanctions.

Sec. 112. Repeal of prohibition on imposition of sanctions with respect to importation of goods under Fentanyl Sanctions Act.

Sec. 113. Classified report and briefing on staffing of Office of Foreign Assets Control.

Sec. 114. Report on drug transportation routes and use of vessels with mislabeled cargo.

TITLE II—ANTI-MONEY LAUNDERING MATTERS

Sec. 201. Designation of illicit fentanyl transactions of sanctioned persons as of primary money laundering concern.

Sec. 202. Treatment of transnational criminal organizations in suspicious transactions reports of the Financial Crimes Enforcement Network.

Sec. 203. Report on trade-based money laundering in trade with Mexico, the People's Republic of China, and Burma.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) the proliferation of fentanyl is causing an
 4 unprecedented surge in overdose deaths in the
 5 United States, fracturing families and communities,
 6 and necessitating a comprehensive policy response to
 7 combat its lethal flow and to mitigate the drug's
 8 devastating consequences;

1 (2) the trafficking of fentanyl into the United
2 States is a national security threat that has killed
3 hundreds of thousands of United States citizens;

4 (3) transnational criminal organizations, includ-
5 ing cartels primarily based in Mexico, are the main
6 purveyors of fentanyl into the United States and
7 must be held accountable;

8 (4) precursor chemicals sourced from the Peo-
9 ple's Republic of China are—

10 (A) shipped from the People's Republic of
11 China by legitimate and illegitimate means;

12 (B) transformed through various synthetic
13 processes to produce different forms of
14 fentanyl; and

15 (C) crucial to the production of illicit
16 fentanyl by transnational criminal organiza-
17 tions, contributing to the ongoing opioid crisis;

18 (5) the United States Government must remain
19 vigilant to address all new forms of fentanyl precu-
20 sors and drugs used in combination with fentanyl,
21 such as Xylazine, which attribute to overdose deaths
22 of people in the United States;

23 (6) to increase the cost of fentanyl trafficking,
24 the United States Government should work collabo-
25 ratively across agencies and should surge analytic

1 capability to impose sanctions and other remedies
 2 with respect to transnational criminal organizations
 3 (including cartels), including foreign nationals who
 4 facilitate the trade in illicit fentanyl and its precursors
 5 from the People’s Republic of China and such
 6 organizations; and

7 (7) the Department of the Treasury should
 8 focus on fentanyl trafficking and its facilitators as
 9 one of the top national security priorities for the Department.
 10 department.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

16 (A) the Committee on Banking, Housing,
 17 and Urban Affairs of the Senate; and

18 (B) the Committee on Foreign Affairs and
 19 the Committee on Financial Services of the
 20 House of Representatives.

21 (2) FOREIGN PERSON.—The term “foreign person”—

23 (A) means—

24 (i) any citizen or national of a foreign
 25 country; or

1 (ii) any entity not organized under the
2 laws of the United States or a jurisdiction
3 within the United States; and

4 (B) does not include the government of a
5 foreign country.

6 (3) KNOWINGLY.—The term “knowingly”, with
7 respect to conduct, a circumstance, or a result,
8 means that a person has actual knowledge, or should
9 have known, of the conduct, the circumstance, or the
10 result.

11 (4) TRAFFICKING.—The term “trafficking”,
12 with respect to fentanyl, fentanyl precursors, or
13 other related opioids, has the meaning given the
14 term “opioid trafficking” in section 7203 of the
15 Fentanyl Sanctions Act (21 U.S.C. 2302).

16 (5) TRANSNATIONAL CRIMINAL ORGANIZA-
17 TION.—The term “transnational criminal organiza-
18 tion” includes—

19 (A) any organization designated as a sig-
20 nificant transnational criminal organization
21 under part 590 of title 31, Code of Federal
22 Regulations;

23 (B) any of the organizations known as—

24 (i) the Sinaloa Cartel;

1 (ii) the Jalisco New Generation Car-
 2 tel;

3 (iii) the Gulf Cartel;

4 (iv) the Los Zetas Cartel;

5 (v) the Juarez Cartel;

6 (vi) the Tijuana Cartel;

7 (vii) the Beltran-Leyva Cartel;

8 (viii) La Familia Michoacana, also
 9 known as the Knights Templar Cartel; or

10 (ix) La Nueva Familia Michoacan;

11 (C) any other organization that the Presi-
 12 dent determines is a transnational criminal or-
 13 ganization; or

14 (D) any successor organization to an orga-
 15 nization described in subparagraph (B) or as
 16 otherwise determined by the President.

17 (6) UNITED STATES PERSON.—The term
 18 “United States person” means—

19 (A) a United States citizen or an alien law-
 20 fully admitted for permanent residence to the
 21 United States;

22 (B) an entity organized under the laws of
 23 the United States or of any jurisdiction within
 24 the United States, including a foreign branch of
 25 such an entity; or

1 (C) any person in the United States.

2 **TITLE I—SANCTIONS MATTERS**

3 **Subtitle A—Sanctions in Response**
4 **to National Emergency Relating**
5 **to Fentanyl Trafficking**

6 **SEC. 101. FINDING; POLICY.**

7 (a) FINDING.—Congress finds that international
8 trafficking of fentanyl, fentanyl precursors, or other re-
9 lated opioids constitutes an unusual and extraordinary
10 threat to the national security, foreign policy, and econ-
11 omy of the United States, and is a national emergency.

12 (b) POLICY.—It shall be the policy of the United
13 States to apply economic and other financial sanctions to
14 those who engage in the international trafficking of
15 fentanyl, fentanyl precursors, or other related opioids to
16 protect the national security, foreign policy, and economy
17 of the United States.

18 **SEC. 102. USE OF NATIONAL EMERGENCY AUTHORITIES;**

19 **REPORTING.**

20 (a) IN GENERAL.—The President may exercise all
21 authorities provided under sections 203 and 205 of the
22 International Emergency Economic Powers Act (50
23 U.S.C. 1702 and 1704) to carry out this subtitle.

24 (b) REPORT REQUIRED.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, and an-
3 nually thereafter, the President shall submit to the
4 appropriate congressional committees a report on ac-
5 tions taken by the executive branch pursuant to this
6 subtitle and any national emergency declared with
7 respect to the trafficking of fentanyl, including—

8 (A) the issuance of any new or revised reg-
9 ulations, policies, or guidance;

10 (B) the imposition of sanctions;

11 (C) the collection of relevant information
12 from outside parties;

13 (D) the approval or denial of licenses by
14 the Office of Foreign Assets Control;

15 (E) the initiation of enforcement cases; or

16 (F) the implementation of mitigation pro-
17 cedures.

18 (2) FORM OF REPORT.—Each report required
19 by paragraph (1) shall be submitted in unclassified
20 form, but may include the matters required by sub-
21 paragraphs (C), (D), (E), and (F) of that paragraph
22 in a classified annex.

1 **SEC. 103. CODIFICATION OF EXECUTIVE ORDER IMPOSING**
 2 **SANCTIONS WITH RESPECT TO FOREIGN PER-**
 3 **SONS INVOLVED IN GLOBAL ILLICIT DRUG**
 4 **TRADE.**

5 United States sanctions provided for in Executive
 6 Order 14059 (50 U.S.C. 1701 note; relating to imposing
 7 sanctions on foreign persons involved in the global illicit
 8 drug trade), and any amendments to or directives issued
 9 pursuant to such Executive orders before the date of the
 10 enactment of this Act, shall remain in effect.

11 **SEC. 104. IMPOSITION OF SANCTIONS WITH RESPECT TO**
 12 **FENTANYL TRAFFICKING BY**
 13 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

14 (a) IN GENERAL.—The President shall impose the
 15 sanctions described in subsection (b) with respect to any
 16 foreign person the President determines—

17 (1) is knowingly involved in the significant traf-
 18 ficking of fentanyl, fentanyl precursors, or other re-
 19 lated opioids by a transnational criminal organiza-
 20 tion; or

21 (2) otherwise is knowingly involved in signifi-
 22 cant activities of a transnational criminal organiza-
 23 tion relating to the trafficking of fentanyl, fentanyl
 24 precursors, or other related opioids.

25 (b) SANCTIONS DESCRIBED.—The President may,
 26 pursuant to the International Emergency Economic Pow-

ers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in property and interests in property of a foreign person described in subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report on actions taken by the executive branch with respect to the foreign persons identified under subsection (a).

SEC. 105. PENALTIES; WAIVERS; EXCEPTIONS.

(a) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this subtitle or any regulation, license, or order issued to carry out this subtitle shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(b) WAIVER AUTHORITY.—

(1) IN GENERAL.—The President may waive the imposition of sanctions under this subtitle if the

1 President determines, and reports to the appropriate
2 congressional committees, that—

3 (A) the waiver is needed for humanitarian
4 purposes; or

5 (B) the national emergency described in
6 section 101 has ended.

7 (2) NATIONAL SECURITY WAIVER.—The Presi-
8 dent may waive the application of sanctions under
9 this subtitle with respect to a foreign person if the
10 President determines that the waiver is in the na-
11 tional security interest of the United States.

12 (c) EXCEPTIONS.—

13 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-
14 TIES.—This subtitle shall not apply with respect to
15 activities subject to the reporting requirements
16 under title V of the National Security Act of 1947
17 (50 U.S.C. 3091 et seq.) or any authorized intel-
18 ligence activities of the United States.

19 (2) EXCEPTION FOR COMPLIANCE WITH INTER-
20 NATIONAL OBLIGATIONS AND LAW ENFORCEMENT
21 ACTIVITIES.—Sanctions under section 102(c) shall
22 not apply with respect to an alien if admitting or pa-
23 roling the alien into the United States is nec-
24 essary—

1 (A) to permit the United States to comply
2 with the Agreement regarding the Head-
3 quarters of the United Nations, signed at Lake
4 Success on June 26, 1947, and entered into
5 force November 21, 1947, between the United
6 Nations and the United States, or other appli-
7 cable international obligations of the United
8 States; or

9 (B) to carry out or assist law enforcement
10 activity of the United States.

11 (3) EXCEPTION TO COMPLY WITH USMCA.—
12 Sanctions under this subtitle shall not apply in a
13 case in which such sanctions would conflict with pro-
14 visions of the USMCA (as defined in section 3 of the
15 United States-Mexico-Canada Agreement Implemen-
16 tation Act (19 U.S.C. 4502)).

17 (4) HUMANITARIAN EXEMPTION.—The Presi-
18 dent may not impose sanctions under this subtitle
19 with respect to any person for conducting or facili-
20 tating a transaction for the sale of agricultural com-
21 modities, food, medicine, or medical devices or for
22 the provision of humanitarian assistance.

1 **SEC. 106. TREATMENT OF BLOCKED PROPERTY OF**
2 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

3 (a) TRANSFER OF BLOCKED PROPERTY TO FOR-
4 FEITURE FUNDS.—

5 (1) IN GENERAL.—The President may transfer
6 the proceeds of any covered forfeited property to the
7 Department of the Treasury Forfeiture Fund estab-
8 lished under section 9705 of title 31, United States
9 Code, or the Department of Justice Assets For-
10 feiture Fund established under section 524(c) of title
11 28, United States Code.

12 (2) REPORT REQUIRED.—Not later than 180
13 days after the date of the enactment of this Act, and
14 every 180 days thereafter, the President shall sub-
15 mit to the appropriate congressional committees a
16 report on any transfers made under paragraph (1)
17 during the 180-day period preceding submission of
18 the report.

19 (3) COVERED FORFEITED PROPERTY DE-
20 FINED.—In this subsection, the term “covered for-
21 feited property” means property—

22 (A) seized by the Department of Justice
23 under chapter 46 or section 1963 of title 18,
24 United States Code; and

1 (B) that belonged to or was possessed by
 2 a transnational criminal organization subject to
 3 sanctions under—

4 (i) this subtitle;

5 (ii) the Fentanyl Sanctions Act (21
 6 U.S.C. 2301 et seq.); or

7 (iii) Executive Order 14059 (50
 8 U.S.C. 1701 note; relating to imposing
 9 sanctions on foreign persons involved in
 10 the global illicit drug trade).

11 (b) BLOCKED ASSETS UNDER TERRORISM RISK IN-
 12 SURANCE ACT OF 2002.—Nothing in this subtitle affects
 13 the treatment of blocked assets of a terrorist party de-
 14 scribed in subsection (a) of section 201 of the Terrorism
 15 Risk Insurance Act of 2002 (28 U.S.C. 1610 note).

16 **Subtitle B—Other Matters**

17 **SEC. 111. EIGHT-YEAR STATUTE OF LIMITATIONS FOR VIO-** 18 **LATIONS OF SANCTIONS.**

19 (a) INTERNATIONAL EMERGENCY ECONOMIC POW-
 20 ERS ACT.—Section 206 of the International Emergency
 21 Economic Powers Act (50 U.S.C. 1705) is amended by
 22 adding at the end the following:

23 “(d) STATUTE OF LIMITATIONS.—

24 “(1) TIME FOR COMMENCING PROCEEDINGS.—

1 “(A) IN GENERAL.—An action, suit, or
 2 proceeding for the enforcement of any civil fine,
 3 penalty, or forfeiture, pecuniary or otherwise,
 4 under this section shall not be entertained un-
 5 less commenced within eight years after the lat-
 6 est date of the violation upon which the civil
 7 fine, penalty, or forfeiture is based.

8 “(B) COMMENCEMENT.—For purposes of
 9 this paragraph, the commencement of an ac-
 10 tion, suit, or proceeding includes the issuance of
 11 a pre-penalty notice or finding of violation.

12 “(2) TIME FOR INDICTMENT.—No person shall
 13 be prosecuted, tried, or punished for any offense
 14 under subsection (c) unless the indictment is found
 15 or the information is instituted within eight years
 16 after the latest date of the violation upon which the
 17 indictment or information is based.”.

18 (b) TRADING WITH THE ENEMY ACT.—Section 16
 19 of the Trading with the Enemy Act (50 U.S.C. 4315) is
 20 amended by adding at the end the following:

21 “(d) STATUTE OF LIMITATIONS.—

22 “(1) TIME FOR COMMENCING PROCEEDINGS.—

23 “(A) IN GENERAL.—An action, suit, or
 24 proceeding for the enforcement of any civil fine,
 25 penalty, or forfeiture, pecuniary or otherwise,

under this section shall not be entertained unless commenced within eight years after the latest date of the violation upon which the civil fine, penalty, or forfeiture is based.

“(B) COMMENCEMENT.—For purposes of this paragraph, the commencement of an action, suit, or proceeding includes the issuance of a pre-penalty notice or finding of violation.

“(2) TIME FOR INDICTMENT.—No person shall be prosecuted, tried, or punished for any offense under subsection (a) unless the indictment is found or the information is instituted within eight years after the latest date of the violation upon which the indictment or information is based.”.

**SEC. 112. REPEAL OF PROHIBITION ON IMPOSITION OF
SANCTIONS WITH RESPECT TO IMPORTATION
OF GOODS UNDER FENTANYL SANCTIONS
ACT.**

Section 7235 of the Fentanyl Sanctions Act (21 U.S.C. 2335) is repealed.

**SEC. 113. CLASSIFIED REPORT AND BRIEFING ON STAFF-
ING OF OFFICE OF FOREIGN ASSETS CON-
TROL.**

Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Foreign

1 Assets Control shall provide to the appropriate congres-
2 sional committees a classified report and briefing on the
3 staffing of the Office of Foreign Assets Control,
4 disaggregated by staffing dedicated to each sanctions pro-
5 gram and each country or issue.

6 **SEC. 114. REPORT ON DRUG TRANSPORTATION ROUTES**
7 **AND USE OF VESSELS WITH MISLABELED**
8 **CARGO.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the Secretary of the Treasury, in con-
11 junction with the heads of other relevant Federal agencies,
12 shall provide to the appropriate congressional committees
13 a classified report and briefing on efforts to target drug
14 transportation routes and modalities, including an assess-
15 ment of the prevalence of false cargo labeling and ship-
16 ment of precursor chemicals without accurate tracking of
17 the customers purchasing the chemicals.

18 **TITLE II—ANTI-MONEY**
19 **LAUNDERING MATTERS**

20 **SEC. 201. DESIGNATION OF ILLICIT FENTANYL TRANS-**
21 **ACTIONS OF SANCTIONED PERSONS AS OF**
22 **PRIMARY MONEY LAUNDERING CONCERN.**

23 Subtitle A of the Fentanyl Sanctions Act (21 U.S.C.
24 2311 et seq.) is amended by inserting after section 7213
25 the following:

1 **“SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANC-**
2 **TIONED PERSONS AS OF PRIMARY MONEY**
3 **LAUNDERING CONCERN.**

4 “(a) IN GENERAL.—If the Secretary of the Treasury
5 determines that reasonable grounds exist for concluding
6 that one or more classes of transactions within, or involv-
7 ing, a jurisdiction outside of the United States is of pri-
8 mary money laundering concern in connection with illicit
9 opioid trafficking, the Secretary of the Treasury may, by
10 order, regulation, or otherwise as permitted by law—

11 “(1) require domestic financial institutions and
12 domestic financial agencies to take 1 or more of the
13 special measures provided for in section 9714(a)(1)
14 of the National Defense Authorization Act for Fiscal
15 Year 2021 (Public Law 116–283; 31 U.S.C. 5318A
16 note); and

17 “(2) prohibit, or impose conditions upon, cer-
18 tain transmittals of funds (to be defined by the Sec-
19 retary) by any domestic financial institution or do-
20 mestic financial agency, if such transmittal of funds
21 involves any such class of transactions.

22 “(b) CLASSIFIED INFORMATION.—In any judicial re-
23 view of a finding of the existence of a primary money laun-
24 dering concern, or of the requirement for 1 or more special
25 measures with respect to a primary money laundering con-
26 cern made under this section, if the designation or imposi-

tion, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any finding made or any requirement imposed under this section.

“(c) AVAILABILITY OF INFORMATION.—The exemptions from, and prohibitions on, search and disclosure referred to in section 9714(c) of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note) shall apply to any report or record of report filed pursuant to a requirement imposed under subsection (a). For purposes of section 552 of title 5, United States Code, this section shall be considered a statute described in subsection (b)(3)(B) of that section.

“(d) PENALTIES.—The penalties referred to in section 9714(d) of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note) shall apply to violations of any order, regulation, special measure, or other requirement imposed under subsection (a), in the same manner and to the same extent as described in such section 9714(d).

“(e) INJUNCTIONS.—The Secretary of the Treasury may bring a civil action to enjoin a violation of any order,

1 regulation, special measure, or other requirement imposed
 2 under subsection (a) in the same manner and to the same
 3 extent as described in section 9714(e) of the National De-
 4 fense Authorization Act for Fiscal Year 2021 (Public Law
 5 116–283; 31 U.S.C. 5318A note).

6 “(f) DEFINITIONS.—In this section, the terms ‘do-
 7 mestic financial agency’, ‘domestic financial institution’,
 8 ‘financial agency’, and ‘financial institution’ have the
 9 meanings given those terms as used in section 9714 of
 10 the National Defense Authorization Act for Fiscal Year
 11 2021 (Public Law 116–283; 31 U.S.C. 5318A note).”.

12 **SEC. 202. TREATMENT OF TRANSNATIONAL CRIMINAL OR-**
 13 **GANIZATIONS IN SUSPICIOUS TRANSACTIONS**
 14 **REPORTS OF THE FINANCIAL CRIMES EN-**
 15 **FORCEMENT NETWORK.**

16 (a) FILING INSTRUCTIONS.—Not later than 180 days
 17 after the date of the enactment of this Act, the Director
 18 of the Financial Crimes Enforcement Network shall issue
 19 guidance or instructions to United States financial institu-
 20 tions for filing reports on suspicious transactions required
 21 by section 1010.320 of title 31, Code of Federal Regula-
 22 tions, related to suspected fentanyl trafficking by
 23 transnational criminal organizations.

24 (b) PRIORITIZATION OF REPORTS RELATING TO
 25 FENTANYL TRAFFICKING OR TRANSNATIONAL CRIMINAL

1 ORGANIZATIONS.—The Director shall prioritize research
2 into reports described in subsection (a) that indicate a
3 connection to trafficking of fentanyl or related synthetic
4 opioids or financing of suspected transnational criminal
5 organizations.

6 **SEC. 203. REPORT ON TRADE-BASED MONEY LAUNDERING**
7 **IN TRADE WITH MEXICO, THE PEOPLE’S RE-**
8 **PUBLIC OF CHINA, AND BURMA.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the Secretary of the Treasury shall sub-
11 mit to the appropriate congressional committees a report
12 on trade-based money laundering originating in Mexico or
13 the People’s Republic of China and involving Burma.

○