

118TH CONGRESS
2D SESSION

S. _____

To amend the Fentanyl Sanctions Act to strengthen the imposition of sanctions under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Fentanyl Sanctions Act to strengthen the imposition of sanctions under that Act, 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 “Fentanyl Reduction
5 Engrained by Economic Deterrence Act” or the “FREED
6 Act”.

1 **SEC. 2. EXPANSION OF SANCTIONS UNDER THE FENTANYL**
2 **SANCTIONS ACT.**

3 (a) IN GENERAL.—Section 7212 of the Fentanyl
4 Sanctions Act (21 U.S.C. 2312) is amended to read as
5 follows:

6 **“SEC. 7212. IMPOSITION OF SANCTIONS.**

7 “(a) APPLICATION TO FOREIGN PERSONS.—The
8 President shall impose the sanctions described in section
9 7213(a)(6) with respect to any foreign person that—

10 “(1) is identified as a foreign opioid trafficker
11 in the report submitted under section 7211(a); or

12 “(2) the President determines—

13 “(A) knowingly has engaged in, or at-
14 tempted to engage in, an activity or transaction
15 that has materially contributed to, or poses a
16 significant risk of materially contributing to,
17 opioid trafficking;

18 “(B) knowingly has received any property
19 or interest in property that the foreign person
20 knows or should have known—

21 “(i) constitutes or is derived from the
22 proceeds of an activity or transaction de-
23 scribed in subparagraph (A);

24 “(ii) was used or intended to be used
25 to commit or to facilitate such an activity
26 or transaction;

1 “(C) knowingly has provided, or attempted
2 to provide, financial, material, or technological
3 support for, including through the provision of
4 goods or services in support of—

5 “(i) any activity or transaction de-
6 scribed in subparagraph (A); or

7 “(ii) any foreign person described in
8 paragraph (1) or clause (i) of this subpara-
9 graph;

10 “(D) is an adult spouse or other family
11 member of an individual described in paragraph
12 (1) or subparagraph (A), (B), or (C) of this
13 paragraph; or

14 “(E) is or has been owned, controlled, or
15 directed by, or has knowingly acted or pur-
16 ported to act for or on behalf of, directly or in-
17 directly, any foreign person described in para-
18 graph (1) or subparagraph (A), (B), or (C) of
19 this paragraph.

20 “(b) APPLICATION TO AGENCIES AND INSTRUMEN-
21 TALITIES OF FOREIGN STATES.—The President shall im-
22 pose 3 or more of the sanctions described in section 7213
23 with respect to—

24 “(1) each agency or instrumentality of a foreign
25 state (as defined in section 1603(b) of title 28,

1 United States Code) that the President deter-
2 mines—

3 “(A) has engaged in, or attempted to en-
4 gage in, an activity or transaction that has ma-
5 terially contributed to, or poses a significant
6 risk of materially contributing to, opioid traf-
7 ficking; or

8 “(B) has provided, or attempted to pro-
9 vide, financial, material, or technological sup-
10 port for, including through the provision of
11 goods or services in support of, any activity or
12 transaction described in subparagraph (A);

13 “(2) each foreign person the President deter-
14 mines is a senior official of an agency or instrumen-
15 tality of a foreign state described in paragraph (1);
16 and

17 “(3) each foreign person that the President de-
18 termines is or has been owned, controlled, or di-
19 rected by, or has knowingly acted or purported to
20 act for or on behalf of, directly or indirectly, an
21 agency or instrumentality of a foreign state de-
22 scribed in paragraph (1) or a foreign person de-
23 scribed in paragraph (2).

24 “(c) DETERMINATION OF APPLICABILITY TO CER-
25 TAIN FOREIGN PERSONS.—

1 “(1) IN GENERAL.—The sanctions described in
2 section 7213 may not apply to a foreign person de-
3 scribed in subsection (a)(1)(D) if the President de-
4 termines that there is clear and convincing evidence
5 the person—

6 “(A) is no longer in contact with the indi-
7 vidual described in paragraph (1) of subsection
8 (a) or subparagraph (A), (B), or (C) of para-
9 graph (2) of that subsection; and

10 “(B) has provided reliable assurances that
11 the person will not engage in any conduct de-
12 scribed in subsection (a) in the future.

13 “(2) NOTIFICATION.—Not later than 30 days
14 after making a determination under paragraph (1),
15 the President shall submit to the appropriate con-
16 gressional committees and leadership a report on the
17 determination.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date that is 90 days
20 after the date of the enactment of this Act.

21 (c) REGULATORY AUTHORITY.—

22 (1) IN GENERAL.—The President shall, not
23 later than 180 days after the date of the enactment
24 of this Act, prescribe regulations as necessary for

1 the implementation of the amendment made by sub-
2 section (a).

3 (2) NOTIFICATION TO CONGRESS.—Not later
4 than 10 days before prescribing regulations under
5 paragraph (1), the President shall notify the appro-
6 priate congressional committees and leadership (as
7 defined in section 7203 of the Fentanyl Sanctions
8 Act (21 U.S.C. 2302)) with respect to the proposed
9 regulations.

10 **SEC. 3. DETERMINATION OF WHETHER CERTAIN ENTITIES**
11 **OF THE PEOPLE’S REPUBLIC OF CHINA MEET**
12 **CRITERIA FOR IMPOSITION OF SANCTIONS.**

13 (a) IN GENERAL.—Not later than 60 days after the
14 date of the enactment of this Act, the Secretary of the
15 Treasury, in consultation with the Secretary of State and
16 the Attorney General, shall—

17 (1) determine whether any entity specified in
18 subsection (b)—

19 (A) is responsible for or complicit in, the
20 production, manufacture, distribution, sale, of
21 fentanyl, fentanyl analogues, or the precursor
22 chemicals for fentanyl or its analogues; or

23 (B) meets the criteria for the imposition of
24 sanctions under—

1 (i) the Fentanyl Sanctions Act (21
2 U.S.C. 2301 et seq.);

3 (ii) the Foreign Narcotics Kingpin
4 Designation Act (21 U.S.C. 1901 et seq.);

5 or

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

10 (2) submit to Congress a report on the deter-
11 mination made under paragraph (1) with respect to
12 each entity specified in subsection (b) that includes
13 the reasons for the determination; and

14 (3) if the Secretary of the Treasury makes an
15 affirmative determination under paragraph (1) with
16 respect to an entity specified in subsection (b), in-
17 clude the entity on the list of specially designated
18 nationals and blocked persons maintained by the Of-
19 fice of Foreign Assets Control.

20 (b) ENTITIES SPECIFIED.—An entity specified in this
21 subsection is any of the following:

22 (1) Bank of China Limited.

23 (2) Ministry of Public Security.

24 (3) General Administration of China Customs.

25 (4) Alibaba.

1 (5) Hebei Aicrowe Biotech Co. Ltd.

2 (6) Shanghai Huilitongda Biological Technology
3 Co. Ltd.

4 (7) Crovell Biotech Co. Ltd.

5 (8) Shunwei Biological.

6 (9) Ministry of State Security.

7 (c) FORM OF REPORT.—The report required by sub-
8 section (a)(2) shall be submitted in unclassified form, but
9 may include a classified annex.

10 **SEC. 4. DETERMINATIONS WITH RESPECT TO PRIMARY**
11 **MONEY LAUNDERING CONCERN RELATING**
12 **TO FINANCING OF ILLICIT FENTANYL AND**
13 **OTHER CONTROLLED SUBSTANCES.**

14 If the Secretary of the Treasury determines that 1
15 or more financial institutions operating outside of the
16 United States, 1 or more classes of transactions within,
17 or involving, a jurisdiction outside of the United States,
18 or 1 or more types of accounts within, or involving, a juris-
19 diction outside of the United States, is of primary money
20 laundering concern in connection with the financing of il-
21 licit fentanyl and other controlled substances, the Sec-
22 retary of the Treasury may, by order, regulation, or other-
23 wise as permitted by law, require domestic financial insti-
24 tutions and domestic financial agencies to take one or

1 more of the special measures described in section
2 5318A(b) of title 31, United States Code.

3 **SEC. 5. REPORT ON IMPROVED ENFORCEMENT WITH RE-**
4 **SPECT TO MONEY LAUNDERING RELATING**
5 **TO FINANCING OF ILLICIT FENTANYL AND**
6 **OTHER CONTROLLED SUBSTANCES.**

7 (a) IN GENERAL.—Not later than one year after the
8 date of the enactment of this Act, the Secretary of the
9 Treasury shall submit to appropriate congressional com-
10 mittees a report that identifies any additional regulations,
11 statutory changes, enhanced due diligence requirements,
12 or reporting requirements the Secretary determines are
13 necessary to better identify, prevent, and combat money
14 laundering connected with the financing of illicit fentanyl
15 and other controlled substances, including related to—

16 (1) identifying the beneficial ownership of anon-
17 ymous entities; and

18 (2) enhanced know-your-customer procedures
19 and screenings for transactions involving any organi-
20 zation identified by the Secretary as—

21 (A) a drug cartel or other criminal organi-
22 zation based in Mexico;

23 (B) a money laundering organization based
24 in the People's Republic of China; or

1 (C) any other entity involved in the financ-
2 ing of illicit fentanyl.

3 (b) FORM.—

4 (1) IN GENERAL.—The report required by sub-
5 section (a) shall be submitted in unclassified form,
6 but may include a classified annex and be accom-
7 panied by a classified briefing.

8 (2) PUBLIC AVAILABILITY.—The unclassified
9 portion of the report required by subsection (a) shall
10 be made available to the public, including on a pub-
11 licly accessible internet website of the Department of
12 the Treasury.

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

16 (1) the Committee on Banking, Housing, and
17 Urban Affairs and the Committee on Foreign Rela-
18 tions of the Senate; and

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

22 **SEC. 6. SENSE OF CONGRESS ON INTERNATIONAL CO-**
23 **OPERATION.**

24 It is the sense of Congress that the Secretary of the
25 Treasury and other relevant Federal officials, such as the

1 Secretary of State, the Secretary of Homeland Security,
2 and the Attorney General, should work jointly with finan-
3 cial intelligence units, trade transparency units, and ap-
4 propriate law enforcement authorities of Canada, the
5 United Kingdom, the European Union, and other coun-
6 tries in Europe, Latin America, and the Caribbean, to
7 identify and present, in the report required by section 5
8 and in future analyses of suspicious transaction reports,
9 cash transaction reports, currency and monetary instru-
10 ment reports, and other relevant data to identify trends
11 and assess risks in the movement of illicit funds from illicit
12 fentanyl operations from Mexico, India, the People's Re-
13 public of China, or any country in the Western Hemi-
14 sphere through the financial systems of the United States,
15 the United Kingdom, and Europe.