

Calendar No. 460

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-229 }

SYNTHETIC OPIOID EXPOSURE PREVENTION
AND TRAINING ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 4739

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO
PROTECT U.S. CUSTOMS AND BORDER PROTECTION OFFICERS,
AGENTS, OTHER PERSONNEL, AND CANINES AGAINST POTENTIAL
SYNTHETIC OPIOID EXPOSURE, AND FOR OTHER PURPOSES



JUNE 1, 2020.—Ordered to be printed

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**SYNTHETIC OPIOID EXPOSURE PREVENTION AND
TRAINING ACT**

JUNE 1, 2020.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 4739]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 4739) to amend the Homeland Security Act of 2002 to protect U.S. Customs and Border Protection officers, agents, other personnel, and canines against potential synthetic opioid exposure, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	3
IV. Section-by-Section Analysis	3
V. Evaluation of Regulatory Impact	4
VI. Congressional Budget Office Cost Estimate	4
VII. Changes in Existing Law Made by the Act, as Reported	5

I. PURPOSE AND SUMMARY

The purpose of H.R. 4739, the Synthetic Opioid Exposure Prevention and Training Act, is to require the Commissioner of U.S. Customs and Border Protection (CBP) to develop a policy that specifies effective protocols and procedures for the safe handling of, and exposure to, synthetic opioids such as fentanyl by CBP officers,

agents, other personnel, and canines. It also requires mandatory and recurring training on the handling of synthetic opioids and how to access and administer opioid receptor antagonists. The Act requires the Commissioner to regularly monitor the implementation of the policy, and as necessary, revise the protocols and procedures. Finally, the Act requires the Department of Homeland Security's (DHS) Office of Inspector General (OIG) to conduct a compliance audit within three years following the enactment of this Act.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Drug overdoses are the leading cause of injury-related death in the United States, exceeding fatalities resulting from gun homicides or motor vehicle accidents.¹ According to the National Center for Health Statistics, in 2018, 67,367 Americans died from an accidental drug overdose.² Opioids were responsible for 46,802 fatalities, representing two-thirds of all overdoses.³

As the nation grapples with the opioid epidemic, CBP officers and agents are on the frontlines of drug interdiction efforts.⁴ According to CBP, "CBP's seizures of fentanyl have significantly increased from two pounds seized during fiscal year (FY) 2013 to 3,404 pounds seized during FY 2018."⁵ CBP reported having approximately 3,500 pounds of fentanyl in its seizure vaults as of April 2019.⁶ The dramatic increase in the seizure of synthetic opioids like fentanyl exacerbates the potential risk of exposure to CBP personnel tasked with preventing illicit drugs from reaching U.S. communities.

Given the extreme potency of synthetic opioids, even minimal exposure can be fatal.⁷ Protecting CBP personnel and canines tasked with handling synthetic opioids is of the utmost importance. A July 2019 Management Alert issued by the DHS OIG found that CBP currently lacks a policy requiring the establishment of precautionary measures to protect its personnel.⁸ Specifically, the alert noted that, "CBP does not require mandatory training for its staff to demonstrate an understanding of the risks of fentanyl and methods for combating accidental exposure."⁹

H.R. 4739 requires the CBP Commissioner to develop a policy that offers guidance on the proper handling of synthetic opioids. In addition, the Act requires training for CBP officers, agents and other personnel, including instruction on the proper administering of naloxone—a treatment for narcotic overdose in an emergency—

¹ S. Comm. on Homeland Sec. & Governmental Affairs Permanent Subcomm. on Investigations, Majority & Minority Staff Report: Combatting the Opioid Crisis: Exploiting Vulnerabilities in International Mail (Jan. 2018), available at <https://www.hsgac.senate.gov/imo/media/doc/Combatting%20the%20Opioid%20Crisis%20-%20Exploiting%20Vulnerabilities%20in%20International%20Mail1.pdf>.

² NCHS Data Brief, National Center for Health Statistics, *Drug Overdose Deaths in the United States, 1999–2018* (Jan. 2020), available at <https://www.cdc.gov/nchs/data/databriefs/db356-h.pdf>.

³ Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention, *Drug and Opioid-Involved Deaths in the United States 2017–2018* (Mar. 2020), available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6911a4.htm>.

⁴ The U.S. Customs and Border Protection, CBP Strategy to Combat Opioids 3 (2019), available at <https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/CBP-Opioid-Strategy-508.pdf>.

⁵ Dept. of Homeland Sec., Off. of Inspector Gen., Management Alert—CBP Did Not Adequately Protect Employees from Possible Fentanyl Exposure 6 (July 2019), available at <https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-53-Jul19.pdf>.

⁶ *Id.*

⁷ *Id.* at 1.

⁸ *Id.* at 2–3.

⁹ *Id.* at 3.

and mandates that personal protective equipment is made readily available. Further, the Commissioner is required to regularly assess the efficiency of the policies established following enactment of this legislation.

III. LEGISLATIVE HISTORY

Representative Yvette D. Clarke (D–NY–9), along with Representatives Bennie Thompson (D–MS–2), Kathleen Rice (D–NY–4), Max Rose (D–NY–11), Peter King (R–NY–2), John Katko (R–NY–24), Clay Higgins (R–LA–3), Elissa Slotkin (D–MI–8), and Mike Rogers (R–AL–3), introduced H.R. 4739 on October 18, 2019. Representative Michael McCaul (R–TX–10) joined as a cosponsor on October 23, 2019. The House of Representatives passed the Act under suspension of the rules by voice vote on December 9, 2019, and it was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered H.R. 4739 at a business meeting on March 11, 2020. Chairman Ron Johnson and Ranking Member Gary Peters offered a substitute amendment that reduced the required number of DHS OIG reports. The Committee adopted the amendment *en bloc* by voice vote and the Act, as amended, was reported favorably *en bloc*. Senators Johnson, Portman, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, Sinema, and Rosen were present for the votes.

IV. SECTION-BY-SECTION ANALYSIS OF THE ACT, AS REPORTED

Section 1. Short title

This section provides the Act’s short title, the “Synthetic Opioid Exposure Prevention and Training Act.”

Section 2. Protection against potential synthetic opioid exposure within U.S. Customs and Border Protection

Subsection (a) requires the CBP Commissioner to develop a policy specifying the proper protocols and procedures for the safe handling of synthetic opioids, including fentanyl, by CBP officers, agents, other personnel, and canines to minimize the risk of injury or death.

Subsection (b) specifies that the policy required in subsection (a) must be accompanied by mandatory and recurring training for CBP personnel on the potential risk posed by the exposure to synthetic opioids, and ensuring familiarity with personal protective equipment and other precautionary measures. The mandatory training is also to include instruction on the appropriate administration of naloxone, and other opioid receptor antagonists. Further, this section provides that any new training may be integrated into an existing training framework.

Subsection (c) requires CBP to ensure field personnel with the potential risk of exposure to synthetic opioids are provided with personal protective equipment and access to opioid antidotes.

Subsection (d) requires the Commissioner of CBP to assess the implementation and efficacy of the policy and make adjustments, if necessary. To ensure compliance with the policy, the DHS OIG is to conduct no less than one audit in the three years following enactment of this Act.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this Act and determined that the Act will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the Act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 8, 2020.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4739, the Synthetic Opioid Exposure Prevention and Training Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Madeleine Fox.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 4739, Synthetic Opioid Exposure Prevention and Training Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 11, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 4739 would require Customs and Border Protection (CBP) to issue a strategy to protect border agents from synthetic opioids. Protection measures would include training, establishing safe handling procedures, and ensuring the availability of personal protective equipment to agents at risk of opioid exposure.

CBP is currently carrying out activities similar to those required by H.R. 4739. Thus, CBO estimates that implementing the act would not have a significant cost; any spending would be subject to the availability of appropriated funds.

On January 15, 2020, CBO transmitted a cost estimate for H.R. 4739, the Synthetic Opioid Exposure Prevention and Training Act, as passed by the House of Representatives on December 9, 2019. The two versions of the legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Madeleine Fox. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE ACT, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by H.R. 4739 as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

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

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle B—U.S. Customs and Border Protection

* * * * *

Sec. 416. Protection against potential synthetic opioid exposure.

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle B—U.S. Customs and Border Protection

* * * * *

SEC. 416. PROTECTION AGAINST POTENTIAL SYNTHETIC OPIOID EXPOSURE.

(a) **IN GENERAL.**—*The Commissioner of U.S. Customs and Border Protection shall issue a policy that specifies effective protocols and procedures for the safe handling of potential synthetic opioids, including fentanyl, by U.S. Customs and Border Protection officers, agents, other personnel, and canines, and to reduce the risk of in-*

jury or death resulting from accidental exposure and enhance post-exposure management.

(b) TRAINING.—

(1) IN GENERAL.—Together with the issuance of the policy described in subsection (a), the Commissioner of U.S. Customs and Border Protection shall require mandatory and recurrent training on the following:

(A) The potential risk of opioid exposure and safe handling procedures for potential synthetic opioids, including precautionary measures such as the use of personal protective equipment during such handling.

(B) How to access and administer opioid receptor antagonists, including naloxone, post-exposure to potential synthetic opioids.

(2) INTEGRATION.—The training described in paragraph (1) may be integrated into existing training under section 411(l) for U.S. Customs and Border Protection officers, agents, and other personnel.

(c) PERSONAL PROTECTIVE EQUIPMENT AND OPIOID RECEPTOR ANTAGONISTS.—Together with the issuance of the policy described in subsection (a), the Commissioner of U.S. Customs and Border Protection shall ensure the availability of personal protective equipment and opioid receptor antagonists, including naloxone, to all U.S. Customs and Border Protection officers, agents, other personnel, and canines at risk of accidental exposure to synthetic opioids.

(d) OVERSIGHT.—To ensure effectiveness of the policy described in subsection (a)—

(1) the Commissioner of U.S. Customs and Border Protection shall regularly monitor the efficacy of the implementation of such policy and adjust protocols and procedures, as necessary; and

(2) the Inspector General of the Department shall audit compliance with the requirements of this section not less than once during the 3-year period after the date of the enactment of this section.

* * * * *