

H.R. 5788, Synthetics Trafficking and Overdose Prevention Act of 2018: Section-by-Section Summary

Overview:

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Section 1: Short Title. Entitles the bill the “Synthetics Trafficking and Overdose Prevention Act of 2018.”

Section 2: Customs Fees. Amends section 13031(b)(9) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) to establish a new \$1 fee on Inbound Express Mail Service items, to be split between U.S. Customs and Border Protection (CBP) and the U.S. Postal Service (USPS), for customs processing associated with the new requirements.

Section 3: Mandatory Advance Electronic Information for Postal Shipments. Amends section 343(a)(3)(K) of the Trade Act of 2002 to require USPS to transmit advance electronic data (AED) to CBP on merchandise arriving to the United States through the international mail and mandates that the agencies meet specific and detailed requirements regarding the transmission of AED – including that USPS transmit AED on at least 70 percent of international mail shipments by December 31, 2018 (including 100 percent of shipments from China), and 100 percent by December 31, 2020. This section requires USPS to refuse shipments for which AED is not furnished after December 31, 2020, unless the agencies determine that remedial action, including other law enforcement initiatives or the failure to provide the AED, is warranted. This section also authorizes the agencies, with the concurrence of the Secretary of State and in coordination with other Federal agencies, as appropriate, to undertake capacity building to enhance the capacity of foreign postal operators to gather and provide AED to the United States.

The section also establishes rigorous oversight mechanisms to ensure that the agencies are accountable to Congress. These accountability measures include: (1) a joint strategic plan detailing specific performance measures for achieving transmission of AED and for the percentage of targeted mail presented by USPS to CBP for inspection; (2) biannual requirements to report to Congress on the progress made in achieving the transmission of AED; and (3) annual reporting requirements on mandates established by Congress, including the status of regulations, progress made in achieving the transmission of AED, agreements reached with foreign postal

operators for AED transmission, an assessment of AED quality and actions to improve it, and a summary of international postal policies that may affect the ability of USPS to obtain AED.

This section also requires the Government Accountability Office to: (1) report on the agencies' progress in achieving the legislative mandates, including an assessment of the quality of AED transmitted to CBP and the ability of USPS to present targeted shipments to CBP for inspection; and (2) make recommendations to improve USPS's compliance with the new requirements, including whether requiring USPS to serve as a consignee for international mail shipments and to designate a customs broker to act as the importer of record would improve the detection of synthetic opioids in the international mail.

Section 4: International Postal Agreements. Directs the State Department to secure any needed changes to international postal agreements to ensure that the United States is not in violation of those agreements. The section further directs the State Department to consult with Congress before entering into any international postal agreement related to the ability of the United States to secure AED from foreign postal operators and to expeditiously conclude any new international postal agreement that would improve the ability of the United States to secure AED from foreign postal operators.

Section 5: Cost Recoupment. Requires USPS, to the extent practicable and permitted by law, to ensure that all costs associated with complying with this Act are charged directly to foreign shippers or foreign postal operators and clarifies that any recovery of costs under this section shall not be considered revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code.

Section 6: Development of Technology to Detect Illicit Narcotics. Directs the Commissioner of CBP and the Postmaster General, in coordination with the heads of other Federal agencies as appropriate, to collaborate to identify and develop technology that will improve the detection of synthetic opioids, as well as other narcotics and psychoactive substances, entering the United States by mail.

Section 7: Civil Penalties for Postal Shipments. Establishes civil penalties if USPS accepts international mail shipments without AED after December 31, 2020, and provides for modification of a civil penalty – including reduction or dismissal of the penalty – if USPS has a low error rate in compliance with this Act; is cooperating with CBP; and has taken remedial action to prevent future violations. However, if CBP determines that there is an ongoing lack of compliance by USPS, it shall impose civil penalties until corrective action is taken.

Section 8: Report on Violations of Arrival, Reporting, Entry, and Clearance Requirements and Falsity or Lack of Manifest. Requires the Commissioner of CBP to submit to the appropriate congressional committees an annual report providing information related to the issuance of penalties for violations of sections 436 and 584 of the Tariff Act of 1930, as amended.

Section 9: Effective Date; Regulations. Provides that the changes made by this Act, other than amendments made by Section 2, shall take effect on the date of the enactment of this Act and

that regulations necessary to carry out this Act shall be prescribed not later than one year after the date of enactment of this Act.