AMENDMENT NO. _______  Calendar No. _______

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


S. 2226

024 for military use, for military personnel purposes.

SCOTT of South Carolina (for himself and Mr. Brown)

Viz:

1 At the end of division A, add the following:

2 TITLE XVIII—FEND OFF FENTANYL ACT

3 SEC. 1801. SHORT TITLE.

5 This title may be cited as the “Fentanyl Eradication and Narcotics Deterrence Off Fentanyl Act” or the “FEND Off Fentanyl Act”.

8 SEC. 1802. SENSE OF CONGRESS.

9 It is the sense of Congress that—
(1) the proliferation of fentanyl is causing an
unprecedented surge in overdose deaths in the
United States, fracturing families and communities,
and necessitating a comprehensive policy response to
combat its lethal flow and to mitigate the drug’s
devastating consequences;

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

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

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

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

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

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

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

(6) to increase the cost of fentanyl trafficking, the United States Government should work collaboratively across agencies and should surge analytic capability to impose sanctions and other remedies with respect to transnational criminal organizations (including cartels), including foreign nationals who facilitate the trade in illicit fentanyl and its precur-
sors from the People’s Republic of China; and

(7) the Department of the Treasury should focus on fentanyl trafficking and its facilitators as one of the top national security priorities for the De-
partment.

SEC. 1803. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on For-
eign Relations of the Senate; and
(B) the Committee on Foreign Affairs and
the Committee on Financial Services of the
House of Representatives.

(2) FOREIGN PERSON.—The term “foreign per-
son”—

(A) means—

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

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

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

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

(4) TRAFFICKING.—The term “trafficking”,
with respect to fentanyl, fentanyl precursors, or
other related opioids, has the meaning given the
term “opioid trafficking” in section 7203 of the
5

(5) TRANSNATIONAL CRIMINAL ORGANIZATION.—The term “transnational criminal organization” includes—

(A) any organization designated as a significant transnational criminal organization under part 590 of title 31, Code of Federal Regulations;

(B) any of the organizations known as—

(i) the Sinaloa Cartel;

(ii) the Jalisco New Generation Cartel;

(iii) the Gulf Cartel;

(iv) the Los Zetas Cartel;

(v) the Juarez Cartel;

(vi) the Tijuana Cartel;

(vii) the Beltran-Leyva Cartel; or

(viii) La Familia Michoacana; or

(C) any other organization that the President determines is a transnational criminal organization; or

(D) any successor organization to an organization described in subparagraph (B) or as otherwise determined by the President.

(6) UNITED STATES PERSON.—The term “United States person” means—
(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States;

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

(C) any person in the United States.

Subtitle A—Sanctions Matters

PART I—SANCTIONS IN RESPONSE TO NATIONAL EMERGENCY RELATING TO FENTANYL TRAFFICKING

SEC. 1811. FINDING; POLICY.

(a) FINDING.—Congress finds that international trafficking of fentanyl, fentanyl precursors, or other related opioids constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and is a national emergency.

(b) POLICY.—It shall be the policy of the United States to apply economic and other financial sanctions to those who engage in the international trafficking of fentanyl, fentanyl precursors, or other related opioids to protect the national security, foreign policy, and economy of the United States.
SEC. 1812. USE OF NATIONAL EMERGENCY AUTHORITIES; REPORTING.

(a) In General.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this part.

(b) REPORT REQUIRED.—

(1) In General.—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 pursuant to this part and any national emergency declared with respect to the trafficking of fentanyl and trade in other illicit drugs, including—

(A) the issuance of any new or revised regulations, policies, or guidance;

(B) the imposition of sanctions;

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

(D) the issuance or closure of general licenses, specific licenses, and statements of licensing policy by the Office of Foreign Assets Control;

(E) a description of any pending enforcement cases; or
(F) the implementation of mitigation procedures.

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

SEC. 1813. CODIFICATION OF EXECUTIVE ORDER IMPOSING SANCTIONS WITH RESPECT TO FOREIGN PERSONS INVOLVED IN GLOBAL ILlicit DRUG TRADE.

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

SEC. 1814. IMPOSITION OF SANCTIONS WITH RESPECT TO FENTANYL TRAFFICKING BY TRANSNATIONAL CRIMINAL ORGANIZATIONS.

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

(1) is knowingly involved in the significant trafficking of fentanyl, fentanyl precursors, or other re-
lated opioids, including such trafficking by a transnational criminal organization; or

(2) otherwise is knowingly involved in significant activities of a transnational criminal organization relating to the trafficking of fentanyl, fentanyl precursors, or other related opioids.

(b) SANCTIONS DESCRIBED.—The President may, pursuant to the International Emergency Economic Powers 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. 1815. PENALTIES; WAIVERS; EXCEPTIONS.

(a) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this part or any regulation, license, or order issued to carry out this part 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) NATIONAL SECURITY WAIVER.—The President may waive the application of sanctions under this part with respect to a foreign person if the President determines that the waiver is in the national security interest of the United States.

(c) EXCEPTIONS.—

(1) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—This part shall not apply with respect to activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) or any authorized intelligence activities of the United States.

(2) EXCEPTION FOR COMPLIANCE WITH INTERNATIONAL OBLIGATIONS AND LAW ENFORCEMENT ACTIVITIES.—Sanctions under this part shall not apply with respect to an alien if admitting or paroling the alien into the United States is necessary—

(A) to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success on June 26, 1947, and entered into
force November 21, 1947, between the United Nations and the United States, or other applicable international obligations of the United States; or

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

(3) HUMANITARIAN EXEMPTION.—The President may not impose sanctions under this part with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices or for the provision of humanitarian assistance.

SEC. 1816. TREATMENT OF FORFEITED PROPERTY OF TRANSNATIONAL CRIMINAL ORGANIZATIONS.

(a) TRANSFER OF FORFEITED PROPERTY TO FORFEITURE FUNDS.—

(1) IN GENERAL.—Any covered forfeited property shall be deposited into the Department of the Treasury Forfeiture Fund established under section 9705 of title 31, United States Code, or the Department of Justice Assets Forfeiture Fund established under section 524(e) of title 28, United States Code.

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

(3) COVERED FORFEITED PROPERTY DE-
FINED.—In this subsection, the term "covered for-
feited property" means property—

(A) forfeited to the United States under
chapter 46 or section 1963 of title 18, United
States Code; and

(B) that belonged to or was possessed by
an individual affiliated with or connected to a
transnational criminal organization subject to
sanctions under—

(i) this part;

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

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

(b) BLOCKED ASSETS UNDER TERRORISM RISK IN-
SURANCE ACT OF 2002.—Nothing in this part affects the
treatment of blocked assets of a terrorist party described

PART II—OTHER MATTERS

SEC. 1821. TEN-YEAR STATUTE OF LIMITATIONS FOR VIOLATIONS OF SANCTIONS.

(a) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended by adding at the end the following:

“(d) STATUTE OF LIMITATIONS.—

“(1) TIME FOR COMMENCING PROCEEDINGS.—

“(A) IN GENERAL.—An action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, under this section shall not be entertained unless commenced within ten 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 (c) unless the indictment is found
or the information is instituted within ten years after the latest date of the violation upon which the indictment or information is based.”.

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

“(d) STATUTE OF LIMITATIONS.—

“(1) TIME FOR COMMENCING PROCEEDINGS.—

“(A) IN GENERAL.—An action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, under this section shall not be entertained unless commenced within ten 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 ten years after the latest date of the violation upon which the indictment or information is based.”.
SEC. 1822. CLASSIFIED REPORT AND BRIEFING ON STAFFING OF OFFICE OF FOREIGN ASSETS CONTROL.

Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Foreign Assets Control shall provide to the appropriate congressional committees a classified report and briefing on the staffing of the Office of Foreign Assets Control, disaggregated by staffing dedicated to each sanctions program and each country or issue.

SEC. 1823. REPORT ON DRUG TRANSPORTATION ROUTES AND USE OF VESSELS WITH MISLABELED CARGO.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in conjunction with the heads of other relevant Federal agencies, shall provide to the appropriate congressional committees a classified report and briefing on efforts to target drug transportation routes and modalities, including an assessment of the prevalence of false cargo labeling and shipment of precursor chemicals without accurate tracking of the customers purchasing the chemicals.
SEC. 1824. REPORT ON ACTIONS OF PEOPLE'S REPUBLIC OF
CHINA WITH RESPECT TO PERSONS INVOLVED IN FENTANYL SUPPLY CHAIN.
Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in conjunction with the heads of other relevant Federal agencies, shall provide to the appropriate congressional committees a classified report and briefing on actions taken by the Government of the People’s Republic of China with respect to persons involved in the shipment of fentanyl, fentanyl analogues, fentanyl precursors, precursors for fentanyl analogues, and equipment for the manufacturing of fentanyl and fentanyl-laced counterfeit pills.

Subtitle B—Anti-Money Laundering Matters

SEC. 1831. DESIGNATION OF ILLICIT FENTANYL TRANSACTIONS OF SANCTIONED PERSONS AS OF PRIMARY MONEY LAUNDERING CONCERN.
Subtitle A of the Fentanyl Sanctions Act (21 U.S.C. 2311 et seq.) is amended by inserting after section 7213 the following:

"SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANCTIONED PERSONS AS OF PRIMARY MONEY LAUNDERING CONCERN.
“(a) IN GENERAL.—If the Secretary of the Treasury determines that reasonable grounds exist for concluding
that one or more financial institutions operating outside
of the United States, 1 or more classes of transactions
within, or involving, a jurisdiction outside of the United
States, or 1 or more types of accounts within, or involving,
a jurisdiction outside of the United States, is of primary
money laundering concern in connection with illicit opioid
trafficking, the Secretary of the Treasury may, by order,
regulation, or otherwise as permitted by law—
“(1) require domestic financial institutions and
domestic financial agencies to take 1 or more of the
special measures provided for in section 9714(a)(1)
of the National Defense Authorization Act for Fiscal
Year 2021 (Public Law 116–283; 31 U.S.C. 5318A
note); or
“(2) prohibit, or impose conditions upon, cer-
tain transmittals of funds (to be defined by the Sec-
retary) by any domestic financial institution or do-
mestic financial agency, if such transmittal of funds
involves any such institution, class of transaction, or
type of accounts.
“(b) CLASSIFIED INFORMATION.—In any judicial re-
view of a finding of the existence of a primary money laun-
dering concern, or of the requirement for 1 or more special
measures with respect to a primary money laundering con-
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 subsection 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,
regulation, special measure, or other requirement imposed
under subsection (a) in the same manner and to the same
extent as described in section 9714(e) of the National De-
Fense Authorization Act for Fiscal Year 2021 (Public Law
116–283; 31 U.S.C. 5318A note).”.

SEC. 1832. TREATMENT OF TRANSNATIONAL CRIMINAL OR-
GANIZATIONS IN SUSPICIOUS TRANSACTIONS
REPORTS OF THE FINANCIAL CRIMES EN-
FORCEMENT NETWORK.

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

(b) PRIORITIZATION OF REPORTS RELATING TO
FENTANYL TRAFFICKING OR TRANSNATIONAL CRIMINAL
ORGANIZATIONS.—The Director shall prioritize research
into reports described in subsection (a) that indicate a
connection to trafficking of fentanyl or related synthetic
opioids or financing of suspected transnational criminal
organizations.
SEC. 1833. REPORT ON TRADE-BASED MONEY LAUNDERING IN TRADE WITH MEXICO, THE PEOPLE’S REPUBLIC OF CHINA, AND BURMA.

(a) In General.—In the first update to the national strategy for combating the financing of terrorism and related forms of illicit finance submitted to Congress after the date of the enactment of this Act, the Secretary of the Treasury shall include a report on trade-based money laundering originating in Mexico or the People’s Republic of China and involving Burma.

(b) Definition.—In this section, the term “national strategy for combating the financing of terrorism and related forms of illicit finance” means the national strategy for combating the financing of terrorism and related forms of illicit finance required by section 261 of the Countering America’s Adversaries Through Sanctions Act (Public Law 115–44; 131 Stat. 934), as amended by section 6506 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 2428).

Subtitle C—Exception Relating to Importation of Goods

SEC. 1841. EXCEPTION RELATING TO IMPORTATION OF GOODS.

(a) In General.—The authority or a requirement to block and prohibit all transactions in all property and interests in property under this title shall not include the
1 authority or a requirement to impose sanctions on the im-
2 portation of goods.
3 (b) GOOD DEFINED.—In this section, the term
4 “good” means any article, natural or manmade substance,
5 material, supply or manufactured product, including in-
6 spection and test equipment, and excluding technical data.