

118TH CONGRESS
1ST SESSION

S. 1728

To prohibit the delivery of opioids by means of the dark web, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2023

Ms. HASSAN (for herself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit the delivery of opioids by means of the dark web, 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 “Dark Web Interdiction
5 Act of 2023”.

6 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The dark web is made up of websites and
9 other network services that leverage overlay net-
10 works providing anonymity. These overlay networks

1 use the internet but require specific software and
2 configurations to access. The overlay networks use
3 multiple encrypted traffic relays for which an indi-
4 vidual relay computer knows its source of informa-
5 tion and where the individual computer is sending
6 the information but never knows both the original
7 source and ultimate destination of the traffic simul-
8 taneously. This anonymity has provided criminals
9 with the ability to host illicit material in a way that
10 circumvents the ability of law enforcement agencies
11 to serve legal process to remove or effectively inves-
12 tigate websites offering illegal content or goods for
13 purchase or sharing.

14 (2) Dark web marketplaces include e-commerce
15 websites based on the dark web on which individuals
16 use virtual currencies to engage in transactions in-
17 volving drugs, weapons, malware, counterfeit cur-
18 rency, stolen credit cards, personal identifying infor-
19 mation, forged documents, unlicensed pharma-
20 ceuticals, and other illicit goods.

21 (3) Due to the anonymity provided by the dark
22 web, illicit activities can be hosted from anywhere in
23 the world without accountability to—

24 (A) the Federal Government;

25 (B) Federal laws; or

1 (C) any other government or system of
2 laws.

3 (4) The use of the dark web to distribute illegal
4 drugs has contributed and continues to contribute to
5 the substance abuse crisis that is devastating com-
6 munities across the United States. This devastation
7 is due in large part to the fact that the dark web
8 has made illicit goods obtainable anonymously.

9 (5) Law enforcement agencies at every level of
10 government continue to investigate drug trafficking
11 and the sale of illegal goods and services through the
12 dark web that occurs as a result of interactions on
13 the dark web, both within the United States and at
14 the international border of the United States, but
15 the increased anonymity the internet provides has
16 made it more difficult to identify and prosecute the
17 individuals and organizations who—

18 (A) administer or otherwise operate
19 websites on the dark web that facilitate the dis-
20 tribution of illegal drugs, goods, or services; or

21 (B) buy and sell illegal drugs, goods, or
22 services through illicit marketplaces hosted on
23 the dark web.

24 (6) Despite difficulties in identifying and locat-
25 ing individuals and organizations who engage in

1 drug trafficking on the dark web, law enforcement
2 agencies have been effective in investigating and
3 prosecuting the distribution of illegal drugs through
4 illicit marketplaces on the dark web, as evidenced by
5 Operation DisrupTor, which—

6 (A) was announced in September 2020;

7 (B) resulted in—

8 (i) 179 arrests worldwide, including
9 121 arrests in the United States;

10 (ii) the seizure of approximately 500
11 kilograms of drugs worldwide, including
12 274 kilograms of drugs in the United
13 States; and

14 (iii) the seizure of more than
15 \$6,500,000 worth of virtual currencies and
16 cash; and

17 (C) is an example of one of many cases
18 conducted jointly by—

19 (i) the Federal Bureau of Investiga-
20 tion;

21 (ii) the Drug Enforcement Adminis-
22 tration;

23 (iii) Immigration and Customs En-
24 forcement;

25 (iv) Homeland Security Investigations;

1 (v) United States Customs and Bor-
2 der Protection;

3 (vi) the United States Postal Inspec-
4 tion Service;

5 (vii) the Financial Crimes Enforce-
6 ment Network;

7 (viii) the Bureau of Alcohol, Tobacco,
8 Firearms and Explosives;

9 (ix) the Naval Criminal Investigative
10 Service;

11 (x) the Department of Justice;

12 (xi) the Department of Defense; and

13 (xii) additional local, State, and inter-
14 national law enforcement partners.

15 (7) Although law enforcement agencies have
16 succeeded in investigating the distribution and sale
17 of illegal drugs, goods, and services that occurs as
18 a result of interactions on the dark web, investiga-
19 tive and prosecutorial collaboration, innovation, and
20 advancement are critical to—

21 (A) increasing the capacity to combat the
22 threat posed by the dark web and the illicit
23 marketplaces hosted on the dark web; and

24 (B) enhancing collaboration and coordina-
25 tion among Federal, State, Tribal, local, inter-

1 national and other law enforcement partners, as
2 appropriate.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) the dark web and illicit marketplaces hosted
6 on the dark web facilitate the distribution of illegal
7 drugs and pose a unique threat to the public health
8 and national security in the United States; and

9 (2) Congress should—

10 (A) support law enforcement agencies and
11 prosecutors at the Federal, State, Tribal, local,
12 and international levels in their efforts to inves-
13 tigate and prosecute the distribution of illegal
14 drugs, goods, and services through the dark
15 web; and

16 (B) increase the investigative and prosecu-
17 torial tools available to law enforcement agen-
18 cies and prosecutors to address the distribution
19 of illegal drugs, goods, and services through the
20 dark web.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) DARK WEB.—The term “dark web” has the
24 meaning given the term in subsection (i) of section

1 401 of the Controlled Substances Act (21 U.S.C.
2 841), as added by section 4 of this Act.

3 (2) DIRECTOR.—The term “Director” means
4 the Director of the task force.

5 (3) ILLICIT MARKETPLACE.—The term “illicit
6 marketplace” means a website on the dark web on
7 which individuals can use virtual currency to engage
8 in transactions involving drugs, weapons, malware,
9 counterfeit currency, stolen credit cards, personal
10 identifying information, forged documents, or other
11 illicit goods.

12 (4) INDIAN TRIBE.—The term “Indian Tribe”
13 has the meaning given the term “Indian tribe” in
14 section 4 of the Indian Self-Determination and Edu-
15 cation Assistance Act (25 U.S.C. 5304).

16 (5) OPIOID.—The term “opioid” has the mean-
17 ing given the term in section 102 of the Controlled
18 Substances Act (21 U.S.C. 802).

19 (6) TASK FORCE.—The term “task force”
20 means the Joint Criminal Opioid and Darknet En-
21 forcement Task Force established under section
22 5(a)(1).

1 **SEC. 4. OFFENSES INVOLVING THE DARK WEB.**

2 Section 401 of the Controlled Substances Act (21
3 U.S.C. 841) is amended by adding at the end the fol-
4 lowing:

5 “(i) OFFENSES INVOLVING DISPENSING OF CON-
6 TROLLED SUBSTANCES BY MEANS OF THE DARK WEB.—

7 “(1) DEFINITION OF DARK WEB.—In this sub-
8 section, the term ‘dark web’ means a portion of the
9 internet in which there are hidden sites and services
10 that—

11 “(A) are not indexed by an internet search
12 engine; and

13 “(B) are only accessible to users of specific
14 devices, software, routing and anonymizing
15 services, authorizations, or configurations that
16 conceal the identities and locations of users.

17 “(2) OFFENSE.—It shall be unlawful for any
18 person to knowingly or intentionally—

19 “(A) deliver, distribute, or dispense a con-
20 trolled substance by means of the dark web, ex-
21 cept as authorized by this title; or

22 “(B) aid or abet (as such terms are used
23 in section 2 of title 18, United States Code)
24 any activity described in subparagraph (A) that
25 is not authorized by this title.

1 (C) the United States Postal Inspection
2 Service;

3 (D) Immigration and Customs Enforce-
4 ment;

5 (E) the Bureau of Alcohol, Tobacco, Fire-
6 arms, and Explosives;

7 (F) Homeland Security Investigations;

8 (G) United States Customs and Border
9 Protection;

10 (H) the Department of Defense;

11 (I) the Financial Crimes Enforcement Net-
12 work; and

13 (J) the Department of Justice.

14 (2) CONSULTATION.—The Director may consult
15 with any State, Tribal, local, or international depart-
16 ment or agency the Director determines necessary to
17 carry out the purpose of the task force described in
18 subsection (b).

19 (d) DUTIES AND FUNCTIONS.—To further the pur-
20 pose of the task force described in subsection (b), the task
21 force shall—

22 (1) engage in—

23 (A) proactive and reactive investigations;

24 and

1 (B) forensic and cyberforensic examina-
2 tions;

3 (2) provide forensic and cyberforensic, tech-
4 nical, preventive, and investigative training and as-
5 sistance to—

6 (A) prosecutors; and

7 (B) law enforcement agencies;

8 (3) develop best practices to assist Federal,
9 State, Tribal, and local law enforcement agencies,
10 prosecutors, and others, as appropriate, in the col-
11 lection of evidence in order to determine and inves-
12 tigate possible nexuses to the dark web and virtual
13 assets, including—

14 (A) evidence logging;

15 (B) evidence maintenance; and

16 (C) evidence sharing;

17 (4) develop multijurisdictional and multiagency
18 responses and partnerships with Federal, inter-
19 national, local, and other law enforcement agencies,
20 as appropriate, by—

21 (A) establishing procedures for information
22 sharing;

23 (B) establishing lists of recommended spe-
24 cialized equipment and tools to investigate and

1 prosecute the distribution of illicit drugs, goods,
2 and services on the dark web; and

3 (C) helping the agencies acquire the nec-
4 essary knowledge, personnel, and specialized
5 equipment to investigate and prosecute the dis-
6 tribution of illegal drugs, goods, and services
7 through the dark web;

8 (5) create novel investigative approaches to—

9 (A) target emerging technologies that fa-
10 cilitate the distribution of opioids through illicit
11 marketplaces on the dark web; and

12 (B) build forensic capacity and expertise to
13 meet the challenges posed by the technologies;

14 (6) enhance collaboration and coordination with
15 international partners; and

16 (7) engage in any other activities the Director
17 determines necessary to carry out the duties of the
18 task force.

19 (e) GUIDANCE AND TRAINING.—The task force shall
20 provide guidance and training to officers and employees
21 of the Federal Bureau of Investigation and other Federal,
22 international, and other law enforcement agencies, as ap-
23 propriate, relating to—

24 (1) techniques and procedures to—

1 (A) recognize evidence or potential evi-
2 dence relating to the dark web; and

3 (B) identify and recognize patterns and
4 practices relating to the distribution of illegal
5 drugs, services, and goods through the dark
6 web;

7 (2) the types of information that should be col-
8 lected and recorded in information technology sys-
9 tems used by the Federal Bureau of Investigation to
10 help—

11 (A) identify administrators and operators
12 of illicit marketplaces;

13 (B) identify vendors, buyers, and other in-
14 dividuals involved in the distribution of opioids
15 through illicit marketplaces; and

16 (C) detect, disrupt, and dismantle illicit
17 marketplaces;

18 (3) procedures for systematic and routine infor-
19 mation sharing within the Federal Bureau of Inves-
20 tigation and between Federal, State, Tribal, and
21 local law enforcement agencies; and

22 (4) any other training or guidance the Director
23 determines necessary to carry out the duties of the
24 task force.

1 (f) REPORT.—Not later than 1 year after the date
2 of enactment of this Act, and annually thereafter, the Di-
3 rector of the Federal Bureau of Investigation, acting
4 through the Director, shall submit to the Committee on
5 the Judiciary of the Senate and the Committee on the Ju-
6 diciary of the House of Representatives a report, which
7 shall include, for the previous year—

8 (1) a summary of the activities and accomplish-
9 ments of the task force;

10 (2) a description of the investigative methods
11 used by the task force, including an assessment of
12 the effectiveness of the methods;

13 (3) information on investigation and prosecu-
14 tion performance measures for the task force, in-
15 cluding—

16 (A) the number of investigations the task
17 force conducted or assisted;

18 (B) the number of illicit marketplaces de-
19 tected, disrupted, or dismantled as a result of
20 an investigation conducted or assisted by the
21 task force;

22 (C) the number of arrests relating to an
23 investigation conducted or assisted by the task
24 force; and

1 (D) statistics that account for the disposi-
2 tion of investigations by the task force that did
3 not result in an arrest or a prosecution;

4 (4) an assessment of partnerships between the
5 task force and other Federal, State, Tribal, and local
6 law enforcement agencies, including the effectiveness
7 of guidance and training provided by the task force
8 to personnel of other Federal, State, Tribal, and law
9 enforcement agencies;

10 (5) an evaluation of the collaboration and co-
11 ordination between the task force and international
12 partners;

13 (6) recommendations for additional congres-
14 sional or legislative action, as appropriate, that
15 would be useful or necessary to achieve the purpose
16 of the task force described in subsection (b);

17 (7) a summary of how transactions involving
18 the distribution of illegal drugs, goods, and services
19 through the dark web are financed;

20 (8) a description of a plan to increase the ca-
21 pacity to investigate the distribution of illegal drugs,
22 goods, and services through the dark web; and

23 (9) recommendations for additional congres-
24 sional or legislative action, as appropriate, that
25 would improve the efforts of Federal agencies to de-

1 tect, disrupt, and dismantle illicit marketplaces, in-
2 cluding efforts to identify individuals and groups in-
3 volved in the distribution of illegal drugs, goods, and
4 services through the dark web.

5 (g) FUNDING.—The Director shall carry out this sec-
6 tion using amounts otherwise made available to the Attor-
7 ney General.

8 (h) SUNSET.—This section shall cease to have force
9 or effect on the date that is 5 years after the date of enact-
10 ment of this Act.

11 **SEC. 6. REPORT ON VIRTUAL CURRENCIES.**

12 Not later than 1 year after the date of enactment
13 of this Act, the Attorney General, in consultation with the
14 Secretary of the Treasury and the Secretary of Homeland
15 Security, shall submit to Congress a report on the use of
16 virtual currencies in the distribution of opioids through il-
17 licit marketplaces on the dark web, which shall include—

18 (1) a summary of how virtual currencies are—

19 (A) used to finance transactions involving
20 the distribution of opioids through illicit mar-
21 ketplaces on the dark web; and

22 (B) exchanged in the course of trans-
23 actions described in subparagraph (A), includ-
24 ing transactions involving—

25 (i) peer-to-peer networks;

- 1 (ii) virtual currency;
- 2 (iii) money transmitters; or
- 3 (iv) other financial institutions;

4 (2) the number of instances involving the dis-
5 tribution of opioids through illicit marketplaces on
6 the dark web in which an individual involved used a
7 virtual currency to finance the distribution;

8 (3) the most common types of virtual currencies
9 used by individuals involved in the distribution of
10 opioids through illicit marketplaces on the dark web;

11 (4) an assessment of the capacity to investigate
12 the use of virtual currencies in the distribution of
13 opioids through illicit marketplaces on the dark web,
14 including—

15 (A) efforts to assist financial institutions
16 in detecting, identifying, and reporting sus-
17 picious activity and money laundering;

18 (B) efforts to obtain financial records and
19 other documents from virtual currency opera-
20 tors and exchanges;

21 (C) training and guidance to Federal,
22 State, Tribal, and local law enforcement agen-
23 cies and prosecutors; and

24 (D) coordination and collaboration with
25 international partners; and

1 (5) recommendations for additional congres-
2 sional or legislative action that would improve the ef-
3 forts of Federal agencies to detect, disrupt, and dis-
4 mantle illicit marketplaces on the dark web, includ-
5 ing efforts to identify individuals using virtual cur-
6 rencies in the distribution of opioids through illicit
7 marketplaces on the dark web.

8 **SEC. 7. FIVE-YEAR UPDATE.**

9 It is the sense of Congress that, not less frequently
10 than once every 5 years, Congress should evaluate and,
11 if necessary, update the definition of the term “dark web”
12 in section 401(i) of the Controlled Substances Act (21
13 U.S.C. 841(i)), as added by section 4 of this Act.

14 **SEC. 8. SEVERABILITY.**

15 If any portion of this Act, or the amendments made
16 by this Act, or the application thereof to any person or
17 circumstance is held invalid, the remainder of this Act and
18 the amendments made by this Act, and the application of
19 this Act or the amendments made by this Act to other
20 persons not similarly situated or to other circumstances
21 shall not be affected by the invalidation.

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