

118TH CONGRESS
1ST SESSION

S. 380

To amend title 18, United States Code, to punish the distribution of fentanyl resulting in death as felony murder.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2023

Mr. RUBIO (for himself, Ms. ERNST, Mr. MARSHALL, Mrs. HYDE-SMITH, Mr. CRUZ, Mr. HAGERTY, Mr. CASSIDY, Mr. RISCH, Mr. LANKFORD, Mr. DAINES, Mr. WICKER, Mr. BRAUN, Mr. BUDD, Mr. COTTON, and Mrs. BRITT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to punish the distribution of fentanyl resulting in death as felony murder.

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 “Felony Murder for
5 Deadly Fentanyl Distribution Act of 2023”.

6 **SEC. 2. FENTANYL DISTRIBUTION RESULTING IN DEATH**
7 **PUNISHED AS FELONY MURDER.**

8 Section 1111 of title 18, United States Code, is
9 amended—

1 (1) in subsection (a), in the second sentence, by
2 inserting “, distributing fentanyl” after “child
3 abuse”;

4 (2) in subsection (b)—

5 (A) by striking “(b) Within” and inserting
6 “(b) (1) Within”; and

7 (B) by adding at the end the following:

8 “(2) Whoever is guilty of murder in the first degree
9 by distributing fentanyl shall be punished by death or by
10 imprisonment for life.”; and

11 (3) in subsection (c)—

12 (A) by redesignating paragraphs (4)
13 through (6) as paragraphs (6) through (8), re-
14 spectively; and

15 (B) by inserting after paragraph (3) the
16 following:

17 “(4) the terms ‘controlled substance’ and ‘dis-
18 tribute’ have the meanings given the terms in sec-
19 tion 102 of the Controlled Substances Act (21
20 U.S.C. 802);

21 “(5) ‘distributing fentanyl’ means to distribute
22 a controlled substance—

23 “(A) involving 2 grams or more of a mix-
24 ture or substance containing a detectable
25 amount of N-phenyl-N-[1-(2-phenylethyl)-4-

1 piperidinyl] propanamide or .5 grams or more
2 of a mixture or substance containing a detect-
3 able amount of any analogue of N-phenyl-N-[1-
4 (2-phenylethyl)-4-piperidinyl] propanamide;

5 “(B) that results in death from the use of
6 a mixture or substance described in subpara-
7 graph (A); and

8 “(C) knowing or having reason to know
9 that the controlled substance contains a detect-
10 able amount of a mixture or substance de-
11 scribed in subparagraph (A).”.

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