



STATE OF FLORIDA

**ASHLEY MOODY
ATTORNEY GENERAL**

May 18, 2021

The Honorable Chuck Schumer
Senate Majority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of House
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Kevin McCarthy
House Minority Leader
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Dick Durbin
Chair, Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member, Committee
on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jerrold Nadler
Chairman, House Committee
on the Judiciary
2132 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim Jordan
Ranking Member, House Committee
on the Judiciary
2056 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone
Chairman, House Committee
on Energy & Commerce
2107 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
Ranking Member, House Committee
on Energy & Commerce
1035 Longworth House Office Building
Washington, D.C. 20515

Dear Majority Leader Schumer, Speaker Pelosi, Senate Minority Leader McConnell, House Minority Leader McCarthy, Chair Durbin, Ranking Member Grassley, Chairman Nadler, Ranking Member Jordan, Chairman Pallone, and Ranking Member McMorris Rodgers:

I write to urge Congress to enact the bipartisan sponsored Federal Initiative to Guarantee Health by Targeting (FIGHT) Fentanyl Act, S. 339 and H.R. 3269. The proposed legislation would

permanently add fentanyl-related compounds to Schedule I of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)). The time for Congress to permanently close this dangerous loophole in our drug enforcement regimen has long passed.

On May 4, 2021 the Extending Temporary Emergency Scheduling of Fentanyl Analogues Act, H.R. 2630, was signed into law. This legislation effectively makes fentanyl analogues Schedule I controlled substances, but only temporarily, through October 22, 2021. This legislation is only a stopgap measure, intended to deal with the looming expiration of the prior temporary order scheduling fentanyl-related compounds, which expired on May 6, 2021. Permanent legislation adding fentanyl-related compounds to Schedule I is necessary to protect our communities, and especially our children, from the scourge of these highly addictive and dangerous substances.

According to the Centers for Disease Control, “[o]ver 81,000 drug overdose deaths occurred in the United States in the 12 months ending in May 2020, the highest number of overdose deaths ever recorded in a 12-month period...”¹ CDC data also shows that “[s]ynthetic opioids (primarily illicitly manufactured fentanyl) appear to be the primary driver of the increases in overdose deaths...”² In those twelve months:

- Overdose deaths involving synthetic opioids increased in 37 of the 38 U.S. jurisdictions with available data on such deaths.
- In 18 of those jurisdictions, overdose deaths involving synthetic opioids increased by more than 50 percent.
- Ten western states reported a 98 percent increase in synthetic opioid-involved deaths.³

The situation is becoming progressively more dangerous as chaos on our southern border gives the established drug cartels – who are manufacturing synthetic opioids in vast quantities, with raw materials provided by sources in the People’s Republic of China – greater opportunities to smuggle drugs into the country.⁴

Since 2019 I have urged Congress to permanently add fentanyl-related compounds to Schedule 1, by promoting legislation such as the FIGHT Fentanyl Act, S. 2701. Passing the current version of the FIGHT Fentanyl Act, S. 339 and H.R. 3269, would eliminate the need to

¹ <https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>

² *Id.*

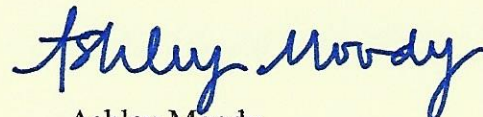
³ *Id.*

⁴ *See e.g.* 'We Are Shipping To The U.S.': Inside China's Online Synthetic Drug Networks (available at <https://www.npr.org/2020/11/17/916890880/we-are-shipping-to-the-u-s-china-s-fentanyl-sellers-find-new-routes-to-drug-user>) (“Now the role of China — and the growing role of India — is sending precursor chemicals directly to cartels in Mexico to produce the fentanyl in clandestine labs,” quoting a DEA source).

pass eleventh-hour legislation to keep fentanyl analogues on Schedule I.⁵ As it stands, the temporary placement of fentanyl analogues on Schedule I will again sunset later this year, and will have to be again revisited in just a few months. In Florida we have dealt firmly with fentanyl-related compounds. Florida took the step of adding fentanyl derivatives permanently to its most dangerous category of drugs of abuse in 2018.⁶

While I support the temporary extension of Schedule I status to fentanyl-related compounds, I urge Congress to act decisively and take the step of permanently adding fentanyl-related compounds to Schedule I, so that trafficking in these highly dangerous drugs can be punished with the most severe penalties. I want to thank Congressman Buchanan (FL-16) for bringing this important legislation to my attention. I also want to thank Senator Portman (OH), Senator Manchin (WV), and Congressman Pappas (NH-4) for their tireless, bipartisan work to deal with this part of the opioid epidemic.

Sincerely,

A handwritten signature in blue ink that reads "Ashley Moody". The signature is written in a cursive, flowing style.

Ashley Moody
Florida Attorney General

⁵ Examples of such last-minute measures are S. 3201, signed into law on February 6, 2020, when temporary scheduling was set to expire the same day, and H.R. 2630, signed into law on March 4, 2021, when temporary scheduling was set to expire May 6, 2021. *See* 21 CFR 1308.11(h)(30); 1 U.S.C. 811(h)(2); https://www.deadiversion.usdoj.gov/fed_regs/rules/2020/fr0410_2.htm.

⁶ *See* Laws of Florida, Ch. 2017-107 (H.B. 477).