



H.R. 5788 - Securing the International Mail Against Opioids Act of 2018 (Rep. Bishop, R-MI)

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FLOOR SCHEDULE:

Scheduled for consideration on June 14, 2018 under a closed [rule](#).

The rule provides that the [substitute amendment](#) offered by Rep. Mike Bishop (R-MI), and the [amendment](#) to that substitute amendment – also offered by Rep. Mike Bishop -- shall be considered as adopted upon passage of the rule.

Accordingly, this legislative bulletin analyzes H.R. 5788 as amended by the Rep. Mike Bishop amendments.

Note that the substitute amendment changes the title of the bill to the “Synthetics Trafficking and Overdose Prevention Act of 2018” or “STOP Act of 2018.”

TOPLINE SUMMARY:

[H.R. 5788](#), the Securing the International Mail Against Opioids Act of 2018, would require the United States Postal Service (USPS) to transmit advance electronic data (AED) to U.S. Customs and Border Protection (CBP) for certain international mail shipments, create a new customs fee to pay for associated costs, and require the USPS and CBP to identify and develop technology for the detection of illicit fentanyl, other synthetic opioids, and other narcotics and psychoactive substances entering the United States by mail.

COST:

According to a Congressional Budget Office (CBO) [estimate](#), it would cost roughly \$100 million over the 2019-2021 period to deploy drug detection systems at international mail facilities. Funding would be subject to appropriation.

The bill would establish a new fee on some international mail, beginning January 1, 2020. Initially, the fee would be one dollar, but the amount could be adjusted annually beginning in FY 2021. CBO “estimates that about \$100 million in new fees would be collected over the 2020-2028 period. The collections would be divided equally between CBP and the Postal Service and spent by those agencies on activities related to the processing of inbound mail. CBO estimates that the net effect on federal spending in each year would be insignificant.”

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** Yes, the bill would impose new requirements on the USPS that would cost \$100 million over the ten-year period. It would also create a new customs fee.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** Yes, the bill would direct the Treasury to create regulations regarding the collection of certain international mail data, allow the CBP the discretion to exclude countries from data transmission duties, gives the USPS and CBP discretionary to take remedial actions instead of refusing shipment in certain situations, and gives CBP discretion to reduce and waive penalties against the USPS.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The bill would require the Secretary of Treasury to promulgate regulations that would require the United States Postal Service (USPS) to transmit advance electronic data (AED) to U.S. Customs and Border Protection (CBP) for international shipments by the USPS. The AED requirements would be phased in with target percentages that increase over time. By the end of 2018, the percentage of shipments that would have to meet the AED requirement would be set at 70% overall, and 100% of shipments from China.

By the end of 2020, 100% of packages would have to meet the AED requirement. The bill would allow the Commissioner of CBP to exclude a country from the AED requirement if the Commissioner determines that a country does not have the capacity to collect and transmit advance electronic data, represents a low risk for shipments that violate relevant U.S. laws and regulations, and accounts for low volumes of mail shipments that can be effectively screened for compliance with relevant U.S. laws and regulations through an alternate means. The Commissioner would reevaluate such exclusions annually.

The USPS and CBP would be required to refuse shipments after December 31, 2020 that are not transmitted with required AED. The bill gives the USPS and CBP discretion to take remedial action instead of refusing shipment. Remedial action can include destruction, seizure, controlled delivery or other law enforcement initiatives, or correction of the failure to provide the information.

The bill would create, starting in 2020, a new customs fee of one dollar to be applied on Inbound Express Mail Service (EMS) items. Collected fees would be split between CBP and USPS, for the costs of customs processing associated with the new requirements. The fee could be adjusted annually beginning in FY 2021 to an amount commensurate with the costs of services provided in connection with the customs processing of Inbound EMS items.

The bill would require the Department of Homeland Security and USPS to jointly submit to Congress a report on compliance with the requirements established in this bill.

The bill would require the Department of Homeland Security and USPS to develop 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. The bill would also require the Department of Homeland Security and USPS to develop a joint strategic plan detailing the extent to

which U.S. Customs and Border Protection and the United States Postal Service are engaged in capacity building efforts, describing plans for future capacity building efforts, and assessing how capacity building has increased the ability of U.S. Customs and Border Protection and the Postal Service.

The bill would also require the Government Accountability Office (GAO) to submit a report on the extent and quality of progress made by the USPS in complying with the bill's AED requirements.

The bill would direct the Secretary of State, in the event that the requirements under the bill are determined to be in violation of obligations of the United States under any postal treaty, convention, or other international agreement to negotiate to amend the relevant provisions of the agreement so that the United States is no longer in violation.

The bill would require the USPS and CBP to collaborate to identify and develop technology for the detection of illicit fentanyl, other synthetic opioids, and other narcotics and psychoactive substances entering the United States by mail.

The bill would direct the USPS to ensure that all costs associated with complying with this Act are charged directly to foreign shippers or foreign postal operators.

The bill would set up a civil penalty against the USPS if the USPS accepts a shipment in violation of the bill's AED requirements after December 31, 2020. The bill would direct CBP to reduce or dismiss the penalty if the USPS has a low error rate in compliance with this Act, is cooperating with CBP, or has taken remedial action to prevent future violations. If CBP determines that the USPS has repeatedly committed violations, it shall impose civil penalties until corrective action, satisfactory to CBP is taken. The bill would require the CBP to annually report on violations occurring in the last year.

COMMITTEE ACTION:

H.R. 5788 was introduced on May 15, 2018, and referred to the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security. On May 16, 2018, a mark-up session was held by the Committee on Ways and Means and the bill was ordered to be reported by voice vote.

ADMINISTRATION POSITION:

According to a [Statement of Administration Policy](#): "The Administration strongly supports House passage of legislation to reduce the trafficking of synthetic drugs, including synthetic opioids, and to empower a more rapid response to emerging drug threats." It further states that if H.R. 5788 were presented to the President, his advisors would recommend that he sign it into law.

CONSTITUTIONAL AUTHORITY:

"Congress has the power to enact this legislation pursuant to the following: U.S. CONST. art. I, Sec. 8, cl. 1 and 3 "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States . . .;" and "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes . . ."

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