

Congress Considers Synthetic Drug Threat

By Andrew Siddons, CQ Roll Call

Congress is looking at what the Drug Enforcement Administration calls its next growing challenge: synthetic drugs. Even though synthetic drugs like fentanyl were responsible in 2014 for twice as many overdose deaths as the year before, many synthetic drugs are made in a way that can allow them to escape legal scrutiny.

As legislative efforts to combat prescription opioid and heroin abuse near completion, the DEA and local law enforcement agencies are looking ahead and asking Congress to consider ways to make it easier to prosecute the makers of synthetic drugs. At a hearing Tuesday, lawmakers on the House Judiciary Committee heard about the legal challenges synthetic drugs pose.

Even though all 50 states have outlawed specific kinds of synthetic drugs, because of their varied chemical compositions, many synthetic drugs are not technically controlled substances. That can tie the hands of law enforcement when it comes to prosecuting traffickers or keeping the drugs out of the United States. If they are not scheduled drugs, they can be sold in stores with deceptive names such as K2, Spice and Scooby Snax. The drugs are particularly attractive to younger people and homeless populations because they are cheap.

Synthetic drugs are designed to mimic the effects of controlled substances like marijuana, but the chemicals used to make them can result in psychosis, organ failure and death. In 2014, around 5,500 people in the United States died after taking synthetic drugs, and others were victims of attacks by people using the drugs. In recent years, the use of the synthetic drug fentanyl to make counterfeit prescription painkillers has been a concern, and a proliferation of fentanyl-laced heroin caused a spike in overdose deaths.

“DEA cannot control these substances at a pace that will prevent additional overdoses and deaths,” Louis Milione, a deputy assistant administrator at the DEA, told members of the Judiciary Subcommittee on Crime, Terrorism, Homeland Security and Investigations.

Placing the drugs on the schedule of controlled substances, which would allow the DEA to crack down on their manufacturers and sellers, can take years through the administrative process. The DEA would like assistance from Congress to place more of these drugs on Schedule I, a category for what are considered the most dangerous drugs without any accepted medical uses. But crafting an effective law will also be a challenge.

A bill (HR 3537) marked up last fall by the House Committee on Energy and Commerce would classify hundreds of synthetic drugs as Schedule I. But if the people who manufacture these drugs simply apply some chemistry, they can find ways to get around a law like this.

“Just them tweaking one chemical atom of that synthetic drug changes the enforcement aspect,” said William Smith Jr., a police officer who spoke at the hearing representing the Fraternal Order of Police. “It’s no longer that chemical, it’s a new chemical, so therefore it cannot be prosecuted.”

Impact on Scientific Research

While law enforcement acknowledges that just scheduling the drugs won’t be enough, others point out that this approach could also hinder legitimate scientific research into the medicinal uses of controlled substances, which could include treating anxiety, depression, and addiction to alcohol and nicotine.

“The challenge is to preserve researchers’ needs while stemming the flow of dangerous synthetic chemicals,” said David Nichols, a professor of medicinal chemistry at the University of North Carolina. “Few investigators will pursue research into schedule I drugs.”

Nichols argued that it would be more effective to come up with some kind of stringent labeling requirements that could enable criminal penalties for false advertising and reduce the incentives of stores to stock the drugs. While the DEA thinks scheduling changes would be the most effective, Milione acknowledged that an approach like this could also be helpful.

For now, however, the most important thing that Congress might do is draw attention to the risk posed by these drugs. That’s what Devin and Veronica Eckhardt would like to see. After their son Connor died in 2014 after taking one hit of Spice, they’ve devoted themselves to raising awareness about the issue.

“We were not parents with our heads in the sand. We talked to our children about drugs,” Devin Eckhardt told lawmakers. But when it came to the dangers of legal synthetic drugs, he said, “we didn’t have a clue about what’s going on.”

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