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In the battle against fentanyl, closing U.S. trade loophole bolsters law enforcement efforts



Battle against fentanyl and illegal drugs and law enforcement arrests illustration by Greg Groesch / The Washington Times Battle against fentanyl and illegal drugs ... more >

COMMENTARY

By Bill Johnson

Tuesday, February 20, 2024

OPINION:

There are no silver bullets in law enforcement's arsenal to battle the alarming rise in fentanyl trafficking and record-setting overdose deaths ravaging our communities. But there is one mechanism that Congress and this administration can reform to immediately help choke a massive pipeline of imported fentanyl while easing the burden on our nation's law enforcement officers and saving lives.

Federal agencies have interdicted millions of pounds of fentanyl and other illicit drugs making their way to the U.S., but those resources and efforts have not been enough to stem the flow of fentanyl across our borders. More must be done, and it starts before these drugs enter the country.

Cartels and criminals are exploiting a somewhat lesser-known portal to ship these dangerous drugs directly to Americans. And it needs to be closed.

The loophole is known as the Section 321 de minimis provision, which was established under the Tariff Act of 1930 and was originally intended to take the burden off the Customs Service on low-value items such as souvenirs brought back by tourists.

Despite its original purpose, this provision has failed to keep up with the modern marketplace. Today, the de minimis mechanism allows a package of goods valued at \$800 or less per person to come into the country duty-free every day. With the rise of e-commerce and mass distribution shippers, the de minimis provision has exploded in popularity, creating a supercharged black market for counterfeit products, goods produced with slave labor, hazardous materials and illicit drugs, including fentanyl.

Fentanyl is a highly addictive synthetic opioid that is significantly more dangerous than heroin, methamphetamine or cocaine. Two milligrams of fentanyl, just enough to fit on the tip of a pencil, is considered a potentially lethal dose. Hundreds of thousands of deadly doses of fentanyl can be shipped into the country in one small package.

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- In fiscal 2023, the U.S. received more than 1 billion individual packages claiming de minimis preferences, up from the 150 million packages that entered via de minimis in 2016.

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- At the same time, U.S. Customs and Border Protection's fentanyl seizures have risen more than 800% since fiscal 2019, many of them made in the de minimis environment. As of this past September, CBP had seized over 26,000 pounds of fentanyl.

What is even more alarming is that Department of Homeland Security and CBP officials recently acknowledged at a hearing the steep challenges they face in tracing even a small percentage of these de minimis shipments, which amount to nearly 3 million packages a day.

The outdated de minimis provision has become a dangerous gateway, allowing millions of direct mail shipments of illicit drugs from anywhere in the world to enter the U.S. market virtually uninspected, destroying families and communities and overwhelming law enforcement agencies.

As law enforcement officers, our members are on the front lines, and they see firsthand how devastating this drug epidemic is. Our officers work hard to keep fentanyl and other dangerous opioids off the streets and out of our neighborhoods, yet officers respond to a fentanyl overdose every day.

Trained in responding to an overdose and armed with naloxone, they try to save lives. But all too often, they are left with the harrowing task of telling families that their lives will never be the same again.

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Officers are fighting a losing battle if Chinese drug smugglers can circumvent U.S. trade laws and ship hundreds of thousands of shipments directly to consumers with the click of a button. In 2023, over 112,000 people died from overdoses — the highest number to date. That number is only increasing. Fentanyl is being mixed with already deadly illicit drugs, hidden in counterfeit drugs, and being peddled at alarmingly high rates to our youth through social media.

The National Association of Police Organizations has long fought for resources to support law enforcement's efforts to combat fentanyl and similar opioids. Eliminating de minimis e-commerce shipments would help stanch the surge of illicit drugs that are exploiting this loophole to wreak havoc across the country and protect and safeguard the lives of our children, families and friends.

Law enforcement agencies are understaffed and underresourced while violent crime is surging in cities and communities across the country. Our resources are stretched thin among a multitude of priority areas.

We see an opportunity before us that would help bolster law enforcement efforts in confronting the deadly illicit drug trade. That critical solution is closing the de minimis loophole.

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We must fight these poisonous drugs before they are shipped into our markets from China and other countries. Otherwise, our efforts will continue to be undermined by the massive volume of suspected fentanyl and opioids entering our market from China through the de minimis back door.

In this moment of crisis, we need to use every weapon we have to curb this unfettered flow of imported drugs. Congress and the administration have the authority to close off one major avenue that is facilitating large volumes of these lethal drugs and give us the much-needed reform that will help law enforcement battle this epidemic and save lives.

• *Bill Johnson is executive director of the National Association of Police Organizations.*

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