

To the office of U.S. Senator Bernie Moreno

Re: S 5383 (119th Congress), End Gas Station Heroin Act • Latest action (2026-08-08): Read twice and referred to the Committee on the Judiciary.
VFA SI Solution #237 • published 2026-08-09 • <https://www.valuesforamerica.com/solutions/237>
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Synthetic Opioid Control and Interstate Enforcement Act of 2025

The measure, as described from the official record: Prevent the spread of emerging synthetic opioids (including MGM-15, MGM-16, 7-hydroxymitragynine, and mitragynine pseudoindoxyl) by placing them under Schedule I control and strengthening enforcement against manufacturers and distributors, thereby reducing public health harms from 'gas station heroin.'

THE PROPOSAL

This Act amends the Controlled Substances Act to add MGM-15, MGM-16, synthetic 7-hydroxymitragynine, and mitragynine pseudoindoxyl to Schedule I only upon a formal finding by the Secretary of Health and Human Services, based on peer-reviewed evidence, that each substance has a high potential for abuse, no currently accepted medical use in treatment, and a lack of accepted safety for use under medical supervision. The finding must be published in the Federal Register and subject to public comment.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Reallocation of 0.5% of existing Drug Enforcement Administration discretionary appropriations, plus \$10 million from the Crime Victims Fund (currently carrying surplus funds)
Funding Amount	\$50 million per year for five years, subject to appropriation
Sunset Years	5 years
Oversight Body	Government Accountability Office (GAO) with a dedicated commission composed of scientists, law enforcement officials, and public health experts
Enforcement Mechanism	Civil penalties and existing criminal enforcement under 21 U.S.C. § 841, with a new interstate commerce element requiring proof of cross-border movement or effect on interstate markets
Effective Date	One year after enactment, to allow for the HHS scientific review and rulemaking

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 3 (Commerce Clause)
- Article I, Section 8, Clause 18 (Necessary and Proper Clause)
- Tenth Amendment
- Fifth Amendment Due Process Clause (procedural safeguards in scheduling)

Concerns with the measure as written:

- Scheduling substances without clear scientific evidence may exceed the Commerce Clause if applied to purely intrastate activities (see *United States v. Lopez*, 514 U.S. 549)
- Blanket scheduling of mitragynine derivatives could infringe on state police powers over public health and safety, conflicting with the Tenth Amendment
- Expanding enforcement without clear federal nexus (interstate commerce) risks federal overreach into activities properly regulated by states

WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities by requiring scientific evidence for scheduling, protecting public health with oversight, and preserving state flexibility; honors Republican priorities by including a sunset, reining in federal overreach, using existing funding sources, and focusing enforcement on interstate commerce rather than broad federal mandates.

Values for America is a nonpartisan, constitution-first SI think tank. This brief is informational. It is a policy proposal, not law, and it does not support or oppose any candidate or party. Full analysis and sources:

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