
DIGEST

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HB 165 Engrossed

2018 Regular Session

Mack

Abstract: Provides a definition of "aggregate" for purposes of determining the weight of certain controlled dangerous substances, relocates the existing criminal penalties for fentanyl to correspond to its classification as a Schedule II controlled dangerous substance, and applies those same criminal penalties to the substance carfentanil.

Present law provides for the Uniform Controlled Dangerous Substances Law which imposes criminal penalties upon any person who manufactures, produces, distributes, possesses with the intent to distribute, or possesses a controlled dangerous substance or who engages in other unlawful acts set forth in present law relative to controlled dangerous substances.

Imposition of certain penalties in present law depend upon the aggregate weight of the substance involved.

Proposed law retains present law but adds a definition of the term "aggregate" to mean the gross weight of an exhibit of evidence.

Present law classifies fentanyl as a Schedule II substance in the Uniform Controlled Dangerous Substances Law but provides for criminal penalties as follows in the penalty provisions involving Schedule I substances:

- (1) Manufacture or distribution of fentanyl, or a mixture or substance including fentanyl- penalties include imprisonment at hard labor for five to forty years, and may include a fine not to exceed \$50,000.
- (2) Possession of fentanyl or a mixture or substance containing fentanyl - penalties are as follows:
 - (a) An aggregate weight of less than two grams - imprisonment, with or without hard labor, for not less than two years nor more than four years.
 - (b) An aggregate weight of two grams or more but less than twenty-eight grams - imprisonment, with or without hard labor, for not less than two years nor more than ten years and may include a fine of not more than \$5,000.

Proposed law retains the present law classification of fentanyl as a Schedule II substance and retains the present law criminal penalties, but relocates those penalties to the penalty provisions in Schedule

II. Proposed law further applies these present law penalties to violations involving the substance carfentanil.

Present law authorizes substance abuse treatment and probation in certain cases of possession or possession with intent to distribute heroin or fentanyl. Requires a contradictory hearing to determine the presence of a substance abuse disorder, and provides for the revocation of probation or other sanctions for the failure to complete treatment or other conditions of probation.

Proposed law retains present law but relocates these provisions applicable to fentanyl to the penalty provisions in Schedule II, and makes the present law treatment provisions applicable to carfentanil as well.

(Amends R.S. 40:966(B)(3), (C)(4)(intro. para.), and (G)(1); Adds R.S. 40:961(3.1) and 967(B)(1)(intro. para.) and (4), (C)(4), and (E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that the present law penalties and treatment provisions for fentanyl also apply to carfentanil.