

2020 Regular Session

SENATE BILL NO. 73

BY SENATOR MIZELL

CONTROL DANGER SUBSTANCE. Creates the crime of aggravated distribution of a controlled dangerous substance. (gov sig)

1 AN ACT

2 To enact Code of Criminal Procedure Article 814(A)(69), R.S. 14:2(B)(56), and R.S.
3 40:981.4, relative to controlled dangerous substances; to create the crime of
4 aggravated distribution of a controlled dangerous substance; to designate aggravated
5 distribution of a controlled dangerous substance a crime of violence; to provide
6 relative to responsive verdicts; to provide relative to definitions; to provide penalties;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 814(A)(69) is hereby enacted to read
10 as follows:

11 Art. 814. Responsive verdicts; in particular

12 A. The only responsive verdicts which may be rendered when the indictment
13 charges the following offenses are:

14 * * *

15 **69. Aggravated Distribution of a Controlled Dangerous Substance:**

16 **Guilty.**

17 **Guilty of attempted aggravated distribution of a controlled dangerous**

1 substance.

2 Guilty of distribution of a controlled dangerous substance.

3 Guilty of attempted distribution of a controlled dangerous substance.

4 Guilty of possession of a controlled dangerous substance.

5 Guilty of attempted possession of a controlled dangerous substance.

6 Not guilty.

7 * * *

8 Section 2. R.S. 14:2(B)(56) is hereby enacted to read as follows:

9 §2. Definitions

10 * * *

11 B. In this Code, "crime of violence" means an offense that has, as an element,
12 the use, attempted use, or threatened use of physical force against the person or
13 property of another, and that, by its very nature, involves a substantial risk that
14 physical force against the person or property of another may be used in the course
15 of committing the offense or an offense that involves the possession or use of a
16 dangerous weapon. The following enumerated offenses and attempts to commit any
17 of them are included as "crimes of violence":

18 * * *

19 (56) Aggravated distribution of a controlled dangerous substance.

20 * * *

21 Section 3. R.S. 40:981.4 is hereby enacted to read as follows:

22 §981.4. Aggravated distribution of a controlled dangerous substance

23 A. Aggravated distribution of a controlled dangerous substance is the
24 distribution or dispensing of a controlled dangerous substance, or any
25 combination thereof, as provided in R.S. 40:966 et seq., the Uniform Controlled
26 Dangerous Substances Law, under any of the following circumstances:

27 (1) The offender unlawfully distributes or dispenses a controlled
28 dangerous substance that is the direct cause of serious bodily injury to the
29 recipient who ingested or consumed the controlled dangerous substance.

consumed the controlled dangerous substance.

- (2) The offender unlawfully distributes or dispenses a controlled dangerous substance to another who subsequently distributes or dispenses such controlled dangerous substance that is the direct cause of serious bodily injury to the recipient who ingested or consumed the controlled dangerous substance.
- (3) The offender unlawfully distributes or dispenses a controlled dangerous substance that the offender knows or should have known has been laced with fentanyl, carfentanil, or any other foreign substance that substantially increases the likelihood of death or serious bodily injury from use.

Proposed law provides that whoever commits the crime of aggravated distribution of a controlled dangerous substance is to be imprisoned at hard labor for between five and 40 years, at least two years of which must be imposed without benefit of probation, parole, or suspension of sentence. Proposed law further provides that in addition to imprisonment, the offender may be fined up to \$50,000.

Proposed law provides that for purposes of the crime of aggravated distribution of a controlled dangerous substance, the term "serious bodily injury" means bodily injury that involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death. Proposed law further provides that "serious bodily injury" includes any injury that requires the administration of naloxone or other opioid antagonist, or requires emergency medical services.

Present law defines a "crime of violence" for purposes of present law.

Proposed law retains present law and adds that the crime of aggravated distribution of a controlled dangerous substance is a crime of violence.

Present law provides relative to responsive verdicts in criminal trials.

Proposed law retains present law and adds that the only responsive verdicts that may be rendered when the indictment charges aggravated distribution of a controlled dangerous substance are:

- (1) Guilty of attempted aggravated distribution of a controlled dangerous substance.
- (2) Guilty of distribution of a controlled dangerous substance.
- (3) Guilty of attempted distribution of a controlled dangerous substance.
- (4) Guilty of possession of a controlled dangerous substance.
- (5) Guilty of attempted possession of a controlled dangerous substance.
- (6) Not guilty.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds C.Cr.P. Art. 814(A)(69), R.S. 14:2(B)(56), and R.S. 40:981.4)