

2023 Regular Session

HOUSE BILL NO. 75

BY REPRESENTATIVES VILLIO, SCHEXNAYDER, AND STEFANSKI AND  
SENATORS CATHEY AND HEWITT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DRUGS/CONTROLLED: Provides relative to penalties for distribution or possession with  
intent to distribute fentanyl or carfentanil

1 AN ACT

2 To amend and reenact R.S. 40:967(B)(4) and (E)(1), relative to the Uniform Controlled  
3 Dangerous Substances Law; to provide relative to penalties for distribution or  
4 possession with intent to distribute fentanyl or carfentanil; to provide for aggregate  
5 weights; to provide for enhanced penalties; to provide relative to treatment for  
6 fentanyl or carfentanil as a condition for probation; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:967(B)(4) and (E)(1) are hereby amended and reenacted to read  
10 as follows:

11 §967. Prohibited acts - Schedule II; penalties

12 \* \* \*

13 B. Violations of Subsection A. Any person who violates Subsection A of  
14 this Section with respect to:

15 \* \* \*

16 (4)(~~a~~) Fentanyl or a mixture or substance containing a detectable amount of  
17 fentanyl or its analogues, or carfentanil or a mixture or substance containing a  
18 detectable amount of carfentanil or its analogues, ~~upon conviction for any amount,~~  
19 shall be punished as follows:

1           (a) On conviction of an aggregate weight of less than twenty-eight grams,  
2           ~~shall be imprisoned~~ imprisonment at hard labor for not less than five years nor more  
3           than forty years, at least five years of which shall be served without benefit of parole,  
4           probation, or suspension of sentence, and may, in addition, be required to pay a fine  
5           of not more than fifty thousand dollars.

6           (b) On a first conviction of an aggregate weight of twenty-eight grams or  
7           more but less than two hundred fifty grams, imprisonment at hard labor for not less  
8           than seven years nor more than forty years, at least seven years of which shall be  
9           served without benefit of parole, probation, or suspension of sentence, and may, in  
10          addition, be required to pay a fine of not more than fifty thousand dollars.

11          (c) On a first conviction of an aggregate weight of two hundred fifty grams  
12          or more, imprisonment at hard labor for not less than ten years nor more than forty  
13          years, at least ten years of which shall be served without benefit of parole, probation,  
14          or suspension of sentence, and may, in addition, be required to pay a fine of not more  
15          than fifty thousand dollars.

16          (d) On a second conviction of an aggregate weight of twenty eight grams or  
17          more, imprisonment at hard labor for not less than thirty years nor more than forty  
18          years, at least ten years of which shall be served without benefit of parole, probation,  
19          or suspension of sentence, and may, in addition, be required to pay a fine of not more  
20          than five hundred thousand dollars.

21          (e) On a third conviction of an aggregate weight of twenty eight grams or  
22          more, imprisonment at hard labor for not less than ninety-nine years without benefit  
23          of parole, probation, or suspension of sentence, and may, in addition, be required to  
24          pay a fine of not more than five hundred thousand dollars.

25          ~~(b)~~ (f)(i) If the offender unlawfully distributes or dispenses fentanyl or a  
26          mixture or substance containing a detectable amount of fentanyl or its analogues, or  
27          carfentanil or a mixture or substance containing a detectable amount of carfentanil  
28          or its analogues, which is the direct cause of serious bodily injury to the person who  
29          ingested or consumed the substance, the offense shall be classified as a crime of

1 violence, and the offender shall be imprisoned at hard labor for not less than five  
2 years nor more than forty years. At least five years of the sentence of imprisonment  
3 shall be imposed without benefit of probation, parole, or suspension of sentence. In  
4 addition, the offender may be required to pay a fine of not more than fifty thousand  
5 dollars.

6 (ii) For purposes of this Subparagraph, "serious bodily injury" shall have the  
7 same meaning as provided by R.S. 14:2(C).

8 (iii) This Subsection shall be known and may be cited as "Millie's Law".

9 \* \* \*

10 E. Treatment for fentanyl or carfentanil addiction as a condition for  
11 probation.

12 (1) Upon conviction of Paragraph ~~(B)(4)~~ or (C)(4) of this Section, ~~possession~~  
13 ~~with intent to distribute fentanyl or carfentanil or~~ possession of fentanyl or  
14 carfentanil, the court may suspend any sentence which it imposes and place the  
15 defendant on probation pursuant to Article 893 of the Code of Criminal Procedure.  
16 The court may order the division of probation and parole of the Department of Public  
17 Safety and Corrections to conduct a presentence investigation, or may order the  
18 defendant to obtain a substance abuse evaluation, for the purpose of determining  
19 whether the defendant has a substance abuse disorder.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 75 Original 2023 Regular Session Villio

**Abstract:** Increases the penalties for distribution or possession with intent to distribute fentanyl or carfentanil and provides for aggregate weights for the substance.

Present law provides that any person who produces, manufactures, distributes, or dispenses or possesses with the intent to produce, manufacture, distribute, or dispense fentanyl or carfentanil, upon conviction for any amount, shall be imprisoned at hard labor for not less than five years nor more than 40 years and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon conviction of an aggregate weight of less than 28 grams, the offender shall be imprisoned at hard labor for not less than five years nor more than 40 years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon a first conviction of an aggregate weight of 28 grams or more but less than 250 grams, the offender shall be imprisoned at hard labor for not less than seven years nor more than 40 years, at least seven years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon a first conviction of an aggregate weight of 250 grams or more, the offender shall be imprisoned at hard labor for not less than 10 years nor more than 40 years, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon a second conviction of an aggregate weight of 28 grams or more, the offender shall be imprisoned at hard labor for not less than 30 years nor more than 40 years, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$500,000.

Proposed law further provides that upon a third conviction of an aggregate weight of 28 grams or more, the offender shall be imprisoned at hard labor for not less than 99 years without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$500,000.

Present law provides that if an offender unlawfully distributes fentanyl or carfentanil which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offender shall be imprisoned at hard labor for not less than five years nor more than 40 years. At least five years of the sentence shall be served without benefit of probation, parole, or suspension of sentence. In addition, the offender may be required to pay a fine of not more than \$50,000.

Proposed law retains present law.

Present law authorizes the court to suspend any sentence imposed upon a defendant and place the defendant on probation upon conviction of possession with intent to distribute fentanyl or carfentanil or possession of fentanyl or carfentanil.

Proposed law removes the authority of the court to suspend any sentence imposed upon a defendant and place the defendant on probation upon conviction of possession with intent to distribute fentanyl or carfentanil.

(Amends R.S. 40:967(B)(4) and (E)(1))