

## CONFERENCE COMMITTEE REPORT

HB 586

2023 Regular Session

Stefanski

June 7, 2023

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 586 by Representative Stefanski, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Committee on Judiciary A (#2472) be rejected.
2. That the set of Floor Amendments by Senator Peacock (#2656) be adopted.
3. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 16, after "a" and before "substantial" insert "sufficient nexus or"

AMENDMENT NO. 2

On page 1, line 16, after "and with" and before "state" change "the" to "this"

AMENDMENT NO. 3

On page 1, line 18, after "nexus" delete the remainder of the line and insert "to the ingestion, whereupon the fault of the entity or foreign state is thereby established by a rebuttable presumption."

AMENDMENT NO. 4

On page 2, line 5, after "activity" and before "shall" insert "brought pursuant to this Section may rebut the presumption of fault established in this Section, whereupon in the event the defendant in such an action"

AMENDMENT NO. 5

On page 2, line 6, after "defendant" and before "illicit" delete "did not engage in or facilitate the" and insert "was not engaging in or facilitating"

AMENDMENT NO. 6

On page 2, line 7, after "at" delete the remainder of the line and delete line 8 in its entirety and insert "the time of ingestion resulting in the injury or death, or at a time bearing a rational nexus to the ingestion, for which damages are sought under this Section."

AMENDMENT NO. 7

On page 2, at the end of line 11, delete "from sources whose accuracy" at beginning of line 12, delete "cannot reasonably be questioned"

AMENDMENT NO. 8

On page 2, line 16, after "nexus" and before "of that" insert "or contact"

AMENDMENT NO. 9

On page 2, line 17, after "or" and before "this" insert "to"

AMENDMENT NO. 10

On page 2, at the beginning of line 18, delete "commercial activity or nexus" and insert "trafficking or related commercial activity or the nexus or contact thereof to the United States or to this State"

AMENDMENT NO. 11

On page 4, at the beginning of line 11, insert "rebuttable"

AMENDMENT NO. 12

On page 4, line 12, after "a" and before "substantial" insert "sufficient nexus or"

Respectfully submitted,

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Representative John M. Stefanski

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Senator Barrow Peacock

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Representative Gregory A. Miller

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Senator W. Jay Luneau

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Representative Tanner D. Magee

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Senator Heather Cloud

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)]

**CONFERENCE COMMITTEE REPORT DIGEST**

**HB 586**

**2023 Regular Session**

**Stefanski**

**Keyword and oneliner of the instrument as it left the House**

CIVIL/CLAIMS: Provides for civil liability for actions related to fentanyl

**Report adopts Senate amendments to:**

1. Change the definition of "illicit fentanyl".

**Report rejects Senate amendments which would have:**

1. Removed language providing for the source of credible information or statistical data.

**Report amends the bill to:**

1. Provide for a sufficient nexus and substantial contact for the defendant when engaging in or facilitating illicit fentanyl trafficking.
2. Provide for a rebuttable presumption of fault for certain entities.
3. Clarify the source for credible information and statistical data.
4. Clarify the legislative intent.
5. Make semantic changes.
6. Make technical changes.

**Digest of the bill as proposed by the Conference Committee**

Proposed law provides that any entity or foreign state engaging in or facilitating illicit fentanyl trafficking or its commercial activity shall be liable for damages for serious bodily injury or death of persons beginning Jan. 1, 2015.

Proposed law provides that the entity or foreign state must be engaging in or facilitating illicit fentanyl trafficking or its related commercial activity, and the entity or foreign state had a sufficient nexus or substantial contact with the United States and the state at the time of the ingestion or at a time bearing a rational nexus to ingestion.

Proposed law provides that available damages include punitive damages, expert witness fees and expenses, court costs, and reasonable attorney fees.

Proposed law provides that the defendant in an action brought pursuant to proposed law shall have the burden of proving that it did not engage in or facilitate the illicit trafficking or related commercial activity of the unintended ingestion of illicit fentanyl that produced damages.

Proposed law exempts manufacturers of fentanyl that are registered with the U.S. attorney general pursuant to 21 U.S.C. 822.

Present law (21 U.S.C. 822) provides that every person who manufactures or distributes any controlled substance shall obtain an annual registration issued by the U.S. attorney general.

Proposed law provides that the actions of a person ingesting fentanyl shall not be attributable as comparative fault.

Present law (C.C. Art. 2323) provides that in an action where a person suffers injury, death, or loss, the degree or percentage of fault of all persons causing or contributing to the injury shall be determined.

Proposed law provides that an action brought pursuant to proposed law shall be subject to a liberative prescription of 30 years commencing to run from the day of injury.

Proposed law defines "commercial activity", "entity", "foreign state", "illicit fentanyl", "ingestion", "serious bodily injury", and "trafficking".

Present law (28 U.S.C. 1603) provides for immunities and liabilities of foreign states.

Proposed law provides for legislative intent.

Proposed law provides that proposed law shall be known and cited as "JaJa's Law".

(Adds R.S. 9:2800.77)