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## DIGEST

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HB 586 Engrossed

2023 Regular Session

Stefanski

**Abstract:** Provides for civil liability of persons engaging or facilitating illicit fentanyl trafficking or commercial activity.

Proposed law provides that any person or foreign state that engages in or facilitates any illicit fentanyl trafficking or related commercial activity, directly or through an agent, shall be liable for damages resulting from the unintended ingestion of illicit fentanyl if the ingestion results in serious bodily injury or death and if the defendant was engaging in or facilitating illicit fentanyl trafficking or its related commercial activity at any time within six months of the ingestion.

Proposed law provides that available damages include punitive damages, 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", "foreign state", "illicit fentanyl", and "trafficking", "ingestion", "person", "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)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Change references to fentanyl from "illegal" to "illicit".
2. Provide for a defendant's liability for damages for ingestion if the defendant was engaging in or facilitating illicit fentanyl trafficking or its related commercial activity within six months of the ingestion.
3. Provide that credible information or statistical data shall be sufficient for the plaintiff to meet the plaintiff's burden of proof in establishing the action.
4. Amend definitions of "commercial activity" and "person".
5. Remove definition of "fentanyl".
6. Add definitions of "illicit fentanyl" and "trafficking".
7. Add a statute title.
8. Make technical changes.