

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 586

2023 Regular Session

Stefanski

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

Synopsis of Senate Amendments

1. Removes language providing for sources whose accuracy cannot reasonably be questioned as sufficient evidence for the plaintiff to establish an action pursuant to proposed law.
2. Changes definition of "illicit fentanyl".

Digest of Bill as Finally Passed by Senate

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 substantial contact with the U.S. 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 provides that the plaintiff may utilize credible information or statistical data provided by the U.S. government, its agencies, courts, or congress, or publications of information by this state, its agencies, courts, or legislature of illicit fentanyl trafficking to meet the burden of proof.

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)