

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 406

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2732D, IDAHO CODE, TO PROVIDE FOR THE CRIME OF TRAFFICKING IN FENTANYL AND TO PROVIDE PENALTIES; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2734D, IDAHO CODE, TO PROVIDE FOR THE CRIME OF DRUG-INDUCED HOMICIDE AND TO PROVIDE PENALTIES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. The Legislature hereby finds and declares that trafficking in fentanyl in the State of Idaho is a primary contributor to a large and growing societal problem that causes loss of life, personal injury, and theft of property and exacts a tremendous toll on the citizens of this state. To afford better protection to Idaho's citizens from those who traffic in fentanyl, the provisions of this act shall impose a fixed minimum sentence for those who traffic in fentanyl. By enacting fixed minimum sentences, the Legislature does not seek to limit a court's power to impose a greater sentence under Idaho law.

SECTION 2. That Chapter 27, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2732D, Idaho Code, and to read as follows:

37-2732D. TRAFFICKING IN FENTANYL -- MANDATORY SENTENCES. (a) Except as authorized in this chapter, and notwithstanding the provisions of section 37-2732, Idaho Code, any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four (4) grams or more of: alfentanil, as described in section 37-2707(c), Idaho Code; carfentanil, as described in section 37-2707(c), Idaho Code; fentanyl, as described in section 37-2707(c), Idaho Code; norfentanyl, as described in section 37-2707(c), Idaho Code; remifentanil, as described in section 37-2707(c), Idaho Code; sufentanil, as described in section 37-2707(c), Idaho Code; fentanyl-related substances, as described in section 37-2705(b), Idaho Code; or any mixture or substance containing a detectable amount of any such substance is guilty of a felony, which felony shall be known as "trafficking in fentanyl." If the quantity involved:

(1) Is four (4) grams or more but less than fourteen (14) grams, or if such substances are in pill form, consist of one hundred (100) pills or more but fewer than two hundred fifty (250) pills, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(2) Is fourteen (14) grams or more but less than twenty-eight (28) grams, or if such substances are in pill form, consist of two hundred

1 fifty (250) pills or more but fewer than five hundred (500) pills, such
2 person shall be sentenced to a mandatory minimum fixed term of imprison-
3 ment of five (5) years and fined not less than fifteen thousand dollars
4 (\$15,000);

5 (3) Is twenty-eight (28) grams or more, or if such substances are in
6 pill form, consist of five hundred (500) pills or more, such person
7 shall be sentenced to a mandatory minimum fixed term of imprisonment
8 of ten (10) years and fined not less than twenty-five thousand dollars
9 (\$25,000).

10 (4) The maximum number of years of imprisonment for trafficking in fen-
11 tanyl shall be life, and the maximum fine shall be one hundred thousand
12 dollars (\$100,000).

13 (b) A second conviction for the offense of trafficking in fentanyl as
14 defined in this section shall result in a mandatory minimum fixed term that
15 is twice that otherwise required under this section.

16 (c) Notwithstanding any other provision of law, with respect to any
17 person who is found to have violated the provisions of this section, adjudi-
18 cation of guilt or the imposition or execution of sentence shall not be sus-
19 pended, deferred, or withheld, nor shall such person be eligible for parole
20 prior to serving the mandatory minimum fixed term of imprisonment prescribed
21 in this section. Further, the court shall not retain jurisdiction.

22 (d) Any person who agrees, conspires, combines, or confederates with
23 another person or solicits another person to commit an act prohibited in sub-
24 section (a) of this section is guilty of a felony and is punishable as if he
25 had actually committed such prohibited act.

26 (e) For the purposes of subsection (a) of this section, the weight or
27 number of pills of the controlled substance as represented by the person
28 selling or delivering it is determinative if the weight or number of pills
29 as represented is greater than the actual weight or number of pills of the
30 controlled substance.

31 SECTION 3. That Chapter 27, Title 37, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 37-2734D, Idaho Code, and to read as follows:

34 37-2734D. DRUG-INDUCED HOMICIDE. (1) A person is guilty of drug-in-
35 duced homicide if:

36 (a) The person has violated the provisions of section 37-2732(a),
37 37-2732B, or 37-2732D, Idaho Code, and has provided a controlled sub-
38 stance to a person; and

39 (b) A person died as a result of the injection, inhalation, ingestion,
40 or administration by any other means of any amount of such controlled
41 substance.

42 (2) Drug-induced homicide shall be a felony punishable by imprisonment
43 for an indeterminate term of life and a maximum fine of twenty-five thousand
44 dollars (\$25,000).

45 SECTION 4. An emergency existing therefor, which emergency is hereby
46 declared to exist, this act shall be in full force and effect on and after
47 July 1, 2024.