

SENATE BILL No. 139

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-130.6; IC 35-48.

Synopsis: Fentanyl. Defines "fentanyl containing substance" and increases the penalty for dealing a drug that is a fentanyl containing substance.

Effective: July 1, 2023.

Tomes

January 9, 2023, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 139

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-130.6 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: **Sec. 130.6. "Fentanyl containing**
4 **substance"**, for purposes of IC 35-48, has the meaning set forth in
5 **IC 35-48-1-16.7.**

6 SECTION 2. IC 35-48-1-16.7 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2023]: **Sec. 16.7. "Fentanyl containing**
9 **substance"** means one (1) or more of the following substances,
10 including their isomers, esters, ethers, salts, and salts of isomers,
11 esters, and ethers:

- 12 (1) 4-fluoroisobutyryl fentanyl.
- 13 (2) Acetyl fentanyl (Other names include:
14 N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide).
- 15 (3) Cyclopentyl fentanyl. Other name:
16 N-(1-phenethylpiperidin-4-yl)-N-
17 phenylcyclopentanecarboxamide.



- 1 (4) Fentanyl related substances.
 2 (5) Furanyl fentanyl.
 3 (6) Isobutyryl fentanyl. Other name: N-(1-phenethylpiperidin-
 4 4-yl)-N- phenylisobutyramide.
 5 (7) Methoxyacetyl fentanyl. Other name:
 6 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide.
 7 (8) 3-Methylfentanyl [N-[3-methyl-1-(2-phenylethyl)-4-
 8 piperidyl] - N-phenyl-propanamide] (9813).
 9 (9) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-
 10 piperidinyl]-N-phenylpropanamide) (9833).
 11 (10) N-(4-chlorophenyl)- N-(1-phenethylpiperidin-4-yl)
 12 isobutyramide (para-chloroisobutyryl fentanyl).
 13 (11) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin
 14 -4-yl) acetamide (ocfentanil).
 15 (12) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4 -yl)
 16 butyramide (para-fluorobutyryl fentanyl).
 17 (13) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also
 18 known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide,
 19 (butyryl fentanyl).
 20 (14) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide
 21 (valeryl fentanyl).
 22 (15) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin -4-yl)
 23 butyramide (para-methoxybutyryl fentanyl).
 24 (16) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropana
 25 mide (thenylfentanyl), including any isomers, salts, or salts of
 26 isomers (9834).
 27 (17) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide
 28 (isobutyryl fentanyl).
 29 (18) N - (1 - p h e n e t h y l p i p e r i d i n - 4 - y l) -
 30 Nphenylcyclopentanecarboxamide (cyclopentyl fentanyl).
 31 (19) Para-chloroisobutyryl fentanyl. Other name:
 32 N-(4-chlorophenyl)- N-(1-phenethylpiperidin- 4-yl)
 33 isobutyramide.
 34 (20) Para-fluorobutyryl fentanyl. Other name: N-(4-
 35 fluorophenyl)-N- (1-phenethylpiperidin- 4-yl)butyramide.
 36 (21) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-
 37 (2-phenethyl)- 4-piperidinyl] propanamide (9812).
 38 (22) Para-methoxybutyryl fentanyl. Other name: N-(4-
 39 methoxyphenyl)-N- (1-phenethylpiperidin-4-yl)butyramide.
 40 (23) Tetrahydrofuranyl fentanyl. Other name:
 41 N - (1 - p h e n e t h y l p i p e r i d i n -
 42 4-yl)-N-phenyltetrahydrofuran-2-carb oxamide.



- 1 **(24) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-**
 2 **piperidinyl] -propanamide) (9835).**
 3 **(25) Valeryl fentanyl. Other name:**
 4 **N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide.**
 5 **(26) Fentanyl.**
 6 **(27) An immediate precursor to fentanyl: 4-Anilino-**
 7 **N-Phenethyl-4-Piperidine (ANPP).**
 8 **(28) Carfentanil.**
 9 SECTION 3. IC 35-48-4-1, AS AMENDED BY P.L.252-2017,
 10 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2023]: Sec. 1. (a) A person who:
 12 (1) knowingly or intentionally:
 13 (A) manufactures;
 14 (B) finances the manufacture of;
 15 (C) delivers; or
 16 (D) finances the delivery of;
 17 cocaine or a narcotic drug, pure or adulterated, classified in
 18 schedule I or II; or
 19 (2) possesses, with intent to:
 20 (A) manufacture;
 21 (B) finance the manufacture of;
 22 (C) deliver; or
 23 (D) finance the delivery of;
 24 cocaine or a narcotic drug, pure or adulterated, classified in
 25 schedule I or II;
 26 commits dealing in cocaine or a narcotic drug, a Level 5 felony, except
 27 as provided in subsections (b) through (e).
 28 (b) A person may be convicted of an offense under subsection (a)(2)
 29 only if:
 30 (1) there is evidence in addition to the weight of the drug that the
 31 person intended to manufacture, finance the manufacture of,
 32 deliver, or finance the delivery of the drug; or
 33 (2) the amount of the drug involved is at least twenty-eight (28)
 34 grams.
 35 (c) The offense is a Level 4 felony if:
 36 (1) the amount of the drug involved is at least one (1) gram but
 37 less than five (5) grams;
 38 (2) the amount of the drug involved is less than one (1) gram and
 39 an enhancing circumstance applies; ~~or~~
 40 (3) the drug is heroin and the amount of heroin involved,
 41 aggregated over a period of not more than ninety (90) days, is at
 42 least three (3) grams but less than seven (7) grams; ~~or~~



- 1 **(4) the drug is a fentanyl containing substance and the amount**
 2 **of fentanyl containing substance involved, aggregated over a**
 3 **period of not more than ninety (90) days, is at least one (1)**
 4 **gram but less than three (3) grams.**
 5 (d) The offense is a Level 3 felony if:
 6 (1) the amount of the drug involved is at least five (5) grams but
 7 less than ten (10) grams;
 8 (2) the amount of the drug involved is at least one (1) gram but
 9 less than five (5) grams and an enhancing circumstance applies;
 10 (3) the drug is heroin and the amount of heroin involved,
 11 aggregated over a period of not more than ninety (90) days, is at
 12 least seven (7) grams but less than twelve (12) grams; ~~or~~
 13 (4) the drug is heroin and:
 14 (A) the amount of heroin involved, aggregated over a period
 15 of not more than ninety (90) days, is at least three (3) grams
 16 but less than seven (7) grams; and
 17 (B) an enhancing circumstance applies;
 18 **(5) the drug is a fentanyl containing substance and the amount**
 19 **of fentanyl containing substance involved, aggregated over a**
 20 **period of not more than ninety (90) days, is at least three (3)**
 21 **grams but less than seven (7) grams; or**
 22 **(6) the drug is a fentanyl containing substance and:**
 23 (A) the amount of fentanyl containing substance involved,
 24 aggregated over a period of not more than ninety (90)
 25 days, is at least one (1) gram but less than three (3) grams;
 26 and
 27 (B) an enhancing circumstance applies.
 28 (e) The offense is a Level 2 felony if:
 29 (1) the amount of the drug involved is at least ten (10) grams;
 30 (2) the amount of the drug involved is at least five (5) grams but
 31 less than ten (10) grams and an enhancing circumstance applies;
 32 (3) the drug is heroin and the amount of heroin involved,
 33 aggregated over a period of not more than ninety (90) days, is at
 34 least twelve (12) grams; ~~or~~
 35 (4) the drug is heroin and:
 36 (A) the amount of heroin involved, aggregated over a period
 37 of not more than ninety (90) days, is at least seven (7) grams
 38 but less than twelve (12) grams; and
 39 (B) an enhancing circumstance applies;
 40 **(5) the drug is a fentanyl containing substance and the amount**
 41 **of fentanyl containing substance involved, aggregated over a**
 42 **period of not more than ninety (90) days, is at least seven (7)**



- 1 **grams; or**
- 2 **(6) the drug is a fentanyl containing substance and:**
- 3 **(A) the amount of fentanyl containing substance involved,**
- 4 **aggregated over a period of not more than ninety (90)**
- 5 **days, is at least three (3) grams but less than seven (7)**
- 6 **grams; and**
- 7 **(B) an enhancing circumstance applies.**

