

# ACT No. 399

HOUSE BILL NO. 90

BY REPRESENTATIVES STEFANSKI, AMEDEE, BACALA, BAGLEY, BEAULLIEU, BRYANT, BUTLER, CARRIER, COUSSAN, CREWS, DAVIS, DESHOTEL, DEVILLIER, ECHOLS, EDMONDS, EDMONSTON, EMERSON, FARNUM, FIRMENT, FONTENOT, FRIEMAN, GADBERRY, GAROFALO, GOUDEAU, HARRIS, HODGES, HORTON, ILLG, MIKE JOHNSON, MCFARLAND, MCKNIGHT, MIGUEZ, MINCEY, ORGERON, CHARLES OWEN, ROBERT OWEN, ROMERO, SCHAMERHORN, SCHLEGEL, SEABAUGH, STAGNI, THOMPSON, VILLIO, WHITE, WRIGHT, AND ZERINGUE AND SENATORS FOIL, HEWITT, KLEINPETER, MIZELL, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 14:2(B)(58) and R.S. 40:967(B)(4) and (E)(1), relative to the  
3 Uniform Controlled Dangerous Substances Law; to provide relative to penalties for  
4 fentanyl or carfentanil; to provide relative to penalties for distribution or possession  
5 with intent to distribute fentanyl or carfentanil; to provide for aggregate weights; to  
6 provide for enhanced penalties; to provide relative to the distribution of fentanyl or  
7 carfentanil which causes serious bodily injury; to provide relative to treatment for  
8 fentanyl or carfentanil as a condition of probation; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:967(B)(4) and (E)(1) are hereby amended and reenacted to read  
11 as follows:

12 §967. Prohibited acts - Schedule II; penalties

13 \* \* \*

14 B. Violations of Subsection A. Any person who violates Subsection A of  
15 this Section with respect to:

16 \* \* \*

17 (4)(~~a~~) Fentanyl or a mixture or substance containing a detectable amount of  
18 fentanyl or its analogues, or carfentanil or a mixture or substance containing a  
19 detectable amount of carfentanil or its analogues, ~~upon conviction for any amount,~~  
20 shall be punished as follows:

1           (a) On conviction of an aggregate weight of less than twenty-eight grams,  
2           ~~shall be imprisoned~~ imprisonment at hard labor for not less than five years nor more  
3           than forty years, at least five years of which shall be served without benefit of parole,  
4           probation, or suspension of sentence, and may, in addition, be required to pay a fine  
5           of not more than fifty thousand dollars.

6           (b) On a first conviction of an aggregate weight of twenty-eight grams or  
7           more but less than two hundred fifty grams, imprisonment at hard labor for not less  
8           than seven years nor more than forty years, at least seven years of which shall be  
9           served without benefit of parole, probation, or suspension of sentence, and may, in  
10          addition, be required to pay a fine of not more than fifty thousand dollars.

11          (c) On a second conviction of an aggregate weight of twenty eight grams or  
12          more but less than two hundred fifty grams, imprisonment at hard labor for not less  
13          than thirty years nor more than forty years, at least ten years of which shall be served  
14          without benefit of parole, probation, or suspension of sentence, and may, in addition,  
15          be required to pay a fine of not more than five hundred thousand dollars.

16          (d) On a third conviction of an aggregate weight of twenty eight grams or  
17          more but less than two hundred fifty grams, imprisonment at hard labor for not less  
18          than ninety-nine years without benefit of parole, probation, or suspension of  
19          sentence, and may, in addition, be required to pay a fine of not more than five  
20          hundred thousand dollars.

21          (e) On conviction of an aggregate weight of two hundred fifty grams or  
22          more, life imprisonment at hard labor, at least twenty-five years of which shall be  
23          served without benefit of parole, probation, or suspension of sentence.

24          ~~(b)~~ (f)(i) If the offender unlawfully distributes or dispenses fentanyl or a  
25          mixture or substance containing a detectable amount of fentanyl or its analogues, or  
26          carfentanil or a mixture or substance containing a detectable amount of carfentanil  
27          or its analogues, which is the direct cause of serious bodily injury to the person who  
28          ingested or consumed the substance, the offense shall be classified as a crime of  
29          violence, and the offender shall be imprisoned at hard labor for ~~not less than an~~ an  
30          additional period of five years ~~nor more than forty years.~~ ~~At least five years of the~~

1 ~~sentence of imprisonment shall be imposed~~ without benefit of probation, parole, or  
 2 ~~suspension of sentence. In addition, the offender may be required to pay a fine of not~~  
 3 ~~more than fifty thousand dollars.~~ The additional penalty imposed pursuant to this  
 4 Subparagraph shall be served consecutively to the sentence imposed under Paragraph  
 5 (4) of this Subsection.

6 (ii) For purposes of this Subparagraph, "serious bodily injury" shall have the  
 7 same meaning as provided by R.S. 14:2(C).

8 (iii) This Subsection shall be known and may be cited as "Millie's Law".

9 \* \* \*

10 E. Treatment for fentanyl or carfentanil addiction as a condition for  
 11 probation.

12 (1) Upon conviction of Paragraph ~~(B)(4)~~ or (C)(4) of this Section, ~~possession~~  
 13 ~~with intent to distribute fentanyl or carfentanil or~~ possession of fentanyl or  
 14 carfentanil, the court may suspend any sentence which it imposes and place the  
 15 defendant on probation pursuant to Article 893 of the Code of Criminal Procedure.  
 16 The court may order the division of probation and parole of the Department of Public  
 17 Safety and Corrections to conduct a presentence investigation, or may order the  
 18 defendant to obtain a substance abuse evaluation, for the purpose of determining  
 19 whether the defendant has a substance abuse disorder.

20 \* \* \*

21 Section 2. R.S. 14:2(B)(58) is hereby amended and reenacted to read as follows:

22 §2. Definitions

23 \* \* \*

24 B. In this Code, "crime of violence" means an offense that has, as an  
 25 element, the use, attempted use, or threatened use of physical force against the  
 26 person or property of another, and that, by its very nature, involves a substantial risk  
 27 that physical force against the person or property of another may be used in the  
 28 course of committing the offense or an offense that involves the possession or use

1 of a dangerous weapon. The following enumerated offenses and attempts to commit  
2 any of them are included as "crimes of violence":

3 \* \* \*

4 (58) Distribution of fentanyl or carfentanil punishable under R.S.  
5 40:967(B)(4)(~~b~~)(f).

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_