SLS 20RS-202 ORIGINAL

2020 Regular Session

SENATE BILL NO. 73

BY SENATOR MIZELL

1

CONTROL DANGER SUBSTANCE. Creates the crime of aggravated distribution of a controlled dangerous substance. (gov sig)

AN ACT

2	To enact Code of Criminal Procedure Article 814(A)(69), R.S. 14:2(B)(56), and R.S.
3	40:981.4, relative to controlled dangerous substances; to create the crime of
4	aggravated distribution of a controlled dangerous substance; to designate aggravated
5	distribution of a controlled dangerous substance a crime of violence; to provide
6	relative to responsive verdicts; to provide relative to definitions; to provide penalties;
7	and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. Code of Criminal Procedure Article 814(A)(69) is hereby enacted to read
10	as follows:
11	Art. 814. Responsive verdicts; in particular
12	A. The only responsive verdicts which may be rendered when the indictment
13	charges the following offenses are:
14	* * *
15	69. Aggravated Distribution of a Controlled Dangerous Substance:
16	Guilty.
17	Guilty of attempted aggravated distribution of a controlled dangerous

1	substance.
2	Guilty of distribution of a controlled dangerous substance.
3	Guilty of attempted distribution of a controlled dangerous substance.
4	Guilty of possession of a controlled dangerous substance.
5	Guilty of attempted possession of a controlled dangerous substance.
6	Not guilty.
7	* * *
8	Section 2. R.S. 14:2(B)(56) is hereby enacted to read as follows:
9	§2. Definitions
10	* * *
11	B. In this Code, "crime of violence" means an offense that has, as an element,
12	the use, attempted use, or threatened use of physical force against the person or
13	property of another, and that, by its very nature, involves a substantial risk that
14	physical force against the person or property of another may be used in the course
15	of committing the offense or an offense that involves the possession or use of a
16	dangerous weapon. The following enumerated offenses and attempts to commit any
17	of them are included as "crimes of violence":
18	* * *
19	(56) Aggravated distribution of a controlled dangerous substance.
20	* * *
21	Section 3. R.S. 40:981.4 is hereby enacted to read as follows:
22	§981.4. Aggravated distribution of a controlled dangerous substance
23	A. Aggravated distribution of a controlled dangerous substance is the
24	distribution or dispensing of a controlled dangerous substance, or any
25	combination thereof, as provided in R.S. 40:966 et seq., the Uniform Controlled
26	Dangerous Substances Law, under any of the following circumstances:
27	(1) The offender unlawfully distributes or dispenses a controlled
28	dangerous substance that is the direct cause of serious bodily injury to the
29	recipient who ingested or consumed the controlled dangerous substance.

I	(2) The offender unlawfully distributes or dispenses a controlled
2	dangerous substance to another who subsequently distributes or dispenses such
3	controlled dangerous substance that is the direct cause of serious bodily injury
4	to the recipient who ingested or consumed the controlled dangerous substance.
5	(3) The offender unlawfully distributes or dispenses a controlled
6	dangerous substance that the offender knows or should have known has been
7	laced with fentanyl, carfentanil, or any other foreign substance that
8	substantially increases the likelihood of death or serious bodily injury from use.
9	B. Whoever commits the crime of aggravated distribution of a controlled
10	dangerous substance shall be imprisoned at hard labor for not less than five
11	years nor more than forty years, at least two years of which shall be imposed
12	without benefit of probation, parole, or suspension of sentence, and in addition
13	may be fined not more than fifty thousand dollars.
14	C. For purposes of this Section, "serious bodily injury" shall have the
15	same definition as provided in R.S. 14:2(C), and additionally shall include any
16	injury that requires the administration of naloxone or other opioid antagonist,
17	or requires emergency medical services.
18	Section 4. This Act shall become effective upon signature by the governor or, if not
19	signed by the governor, upon expiration of the time for bills to become law without signature
20	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21	vetoed by the governor and subsequently approved by the legislature, this Act shall become
22	effective on the day following such approval.
	The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST 2020 Regular Session

SB 73 Original

Mizell

Present law creates the crime of aggravated distribution of a controlled dangerous substance, which is the distribution or dispensing of a controlled dangerous substance, or any combination thereof, as provided in present law (Uniform Controlled Dangerous Substances Law) under any of the following circumstances:

The offender unlawfully distributes or dispenses a controlled dangerous substance (1) that is the direct cause of serious bodily injury to the recipient who ingested or

Page 3 of 4

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

consumed the controlled dangerous substance.

- (2) The offender unlawfully distributes or dispenses a controlled dangerous substance to another who subsequently distributes or dispenses such controlled dangerous substance that is the direct cause of serious bodily injury to the recipient who ingested or consumed the controlled dangerous substance.
- (3) The offender unlawfully distributes or dispenses a controlled dangerous substance that the offender knows or should have known has been laced with fentanyl, carfentanil, or any other foreign substance that substantially increases the likelihood of death or serious bodily injury from use.

<u>Proposed law</u> provides that whoever commits the crime of aggravated distribution of a controlled dangerous substance is to be imprisoned at hard labor for between five and 40 years, at least two years of which must be imposed without benefit of probation, parole, or suspension of sentence. <u>Proposed law</u> further provides that in addition to imprisonment, the offender may be fined up to \$50,000.

<u>Proposed law</u> provides that for purposes of the crime of aggravated distribution of a controlled dangerous substance, the term "serious bodily injury" means bodily injury that involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death. <u>Proposed law</u> further provides that "serious bodily injury" includes any injury that requires the administration of naloxone or other opioid antagonist, or requires emergency medical services.

<u>Present law</u> defines a "crime of violence" for purposes of <u>present law</u>.

<u>Proposed law</u> retains <u>present law</u> and adds that the crime of aggravated distribution of a controlled dangerous substance is a crime of violence.

Present law provides relative to responsive verdicts in criminal trials.

<u>Proposed law</u> retains <u>present law</u> and adds that the only responsive verdicts that may be rendered when the indictment charges aggravated distribution of a controlled dangerous substance are:

- (1) Guilty of attempted aggravated distribution of a controlled dangerous substance.
- (2) Guilty of distribution of a controlled dangerous substance.
- (3) Guilty of attempted distribution of a controlled dangerous substance.
- (4) Guilty of possession of a controlled dangerous substance.
- (5) Guilty of attempted possession of a controlled dangerous substance.
- (6) Not guilty.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds C.Cr.P. Art. 814(A)(69), R.S. 14:2(B)(56), and R.S. 40:981.4)