

SENATE BILL 1754

By Lowe

AN ACT to amend Tennessee Code Annotated, Title 37;  
Title 39 and Title 40, relative to controlled  
substances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(k), is amended by  
deleting the subsection and substituting:

(k)

(1) A violation of this section or a conspiracy to violate this section shall  
be punished one (1) classification higher than provided in subsections (b)-(i) if:

(A) The recipient or the intended recipient of the controlled  
substance is under eighteen (18) years of age; or

(B) The substance involved is fentanyl, or any other fentanyl  
analogue or derivative, and the defendant crossed county lines during the  
course of manufacturing, delivering, selling, or possessing the substance.

(2) A violation of this section or a conspiracy to violate this section shall  
be punished pursuant to § 39-13-210 if the substance involved is a Schedule I or  
II controlled substance, either alone or in combination with any substance  
scheduled as a controlled substance by the Tennessee Drug Control Act of 1989,  
compiled in this part and title 53, chapter 11, parts 3 and 4, including controlled  
substance analogues, and the violation resulted in the death of another person.

SECTION 2. Tennessee Code Annotated, Section 39-13-803, is amended by adding  
the following as a new subdivision:

( ) "Incapacitating agent":

(A) Means a mixture or substance containing a detectable amount of fentanyl, including its derivatives, analogues, isomers, esters, ethers, salts, and salts of isomers, as described in the Tennessee Drug Control Act of 1989, compiled in chapter 17, part 4 of this title and in title 53, chapter 11, parts 3 and 4; and

(B) Does not include the substances listed in subdivision ( ) (A) if lawfully possessed as authorized by chapter 17, part 4 of this title and title 53, chapter 11, parts 3 and 4;

SECTION 3. Tennessee Code Annotated, Section 39-13-803(10), is amended by adding the language "incapacitating agents," immediately after the language "chemical warfare agents,".

SECTION 4. Tennessee Code Annotated, Section 39-13-806(a), is amended by adding the language "incapacitating agent," immediately after the language "chemical warfare agent,".

SECTION 5. Tennessee Code Annotated, Section 39-13-808(a), is amended by adding the language "an incapacitating agent," immediately after the language "a chemical warfare agent," wherever it appears.

SECTION 6. Tennessee Code Annotated, Section 39-17-417(c)(1), is amended by deleting the subdivision and substituting instead the following:

(A) Cocaine or methamphetamine is a Class B felony if the amount involved is point five (0.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and

(B) Fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil is a Class B felony if the amount involved is a detectable amount of any substance containing

fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and

SECTION 7. Tennessee Code Annotated, Section 39-17-417(c)(2), is amended by deleting the language "cocaine, methamphetamine, fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil" wherever it appears and substituting instead the language "cocaine or methamphetamine".

SECTION 8. Tennessee Code Annotated, Section 39-13-116, is amended by adding the following new subsection:

(e)

(1) A person commits aggravated assault against a first responder, who knowingly possesses fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil in a manner that would be reasonably foreseen to expose a first responder to the substance while the first responder is discharging or attempting to discharge the first responder's official duties and the first responder is exposed to the substance.

(2) As used in this subsection (e), "expose" means to come into direct contact with a substance by touch, ingestion, or inhalation.

(3) Aggravated assault under this subsection (e) is a Class C felony, and is punished by a mandatory fine of fifteen thousand dollars (\$15,000) and a mandatory minimum sentence of ninety (90) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire ninety-day mandatory minimum sentence.

SECTION 9. This act takes effect July 1, 2024, the public welfare requiring it.