

2022 Regular Session

SENATE BILL NO. 315

BY SENATOR WOMACK

CONTROL DANGER SUBSTANCE. Provides relative to fentanyl. (8/1/22)

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AN ACT

To amend and reenact R.S. 40:967(B)(4) and to enact R.S. 40:967(F) and 1024.1, relative to fentanyl; to provide for enhanced criminal penalties for certain acts involving fentanyl; to provide for the possession or sale of fentanyl testing equipment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:967(B)(4) is hereby amended and reenacted and R.S. 40:967(F) and 1024.1 are hereby enacted to read as follows:

§967. Prohibited acts - Schedule II, penalties

* * *

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

* * *

(4)(a) Fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, upon conviction for any amount, shall be imprisoned at hard labor for not less than five years nor more than forty

1 years and may, in addition, be required to pay a fine of not more than fifty thousand
2 dollars.

3 **(b) If an individual knowingly misrepresented or knowingly marketed**
4 **a mixture or substance containing fentanyl or a fentanyl analogue as another**
5 **substance, the individual may be subject to enhanced penalties as provided for**
6 **in Subsection F of this Section.**

7 * * *

8 **F. If an individual knowingly misrepresented or knowingly marketed a**
9 **mixture or substance containing fentanyl or a fentanyl analogue as another**
10 **substance, the individual may be subject to the following enhanced penalties:**

11 **(1) In addition to the penalties provided in Paragraph (B)(4) of this**
12 **Section, be fined an amount not more than \$100,000 or the full street value of**
13 **the controlled or counterfeit substance or controlled substance analogue,**
14 **whichever is greater.**

15 **(2) The addition of up to five years may be added to the term of**
16 **imprisonment imposed by the court pursuant to Paragraph (B)(4) of this**
17 **Section, and the maximum sentence for the offense shall be increased by five**
18 **years.**

19 **(3) This Subsection shall be known and may be cited as "Millie's Law".**

20 * * *

21 **§1024.1. Exceptions; fentanyl testing equipment**

22 **Notwithstanding any provision of law to the contrary, the term "drug**
23 **paraphernalia" shall not include rapid fentanyl test strips (FTS) or any testing**
24 **equipment or devices solely used, intended for use, or designed to determine**
25 **whether a substance contains fentanyl or its analogues.**

The original instrument was prepared by Brandi Cannon. The following digest, which does not constitute a part of the legislative instrument, was prepared by Whitney Kauffeld.

DIGEST

SB 315 Engrossed 2022 Regular Session Womack

Present law provides that it is illegal to produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, fentanyl or a fentanyl analogue. Present law further provides that a person who violates present law is to be imprisoned at hard labor for not less than 5 years nor more than 40 years and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law retains present law and provides for enhanced penalties if an individual knowingly misrepresented or knowingly marketed a mixture or substance containing fentanyl or a fentanyl analogue as another substance.

Present law provides that it is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug paraphernalia. Present law defines "drug paraphernalia".

Proposed law retains present law but provides that drug paraphernalia does not include rapid fentanyl test strips or any testing equipment that tests for fentanyl or its analogue.

Effective August 1, 2022.

(Amends R.S. 40:967(B)(4); adds R.S. 40:967(F) and 1024.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Name proposed law relative to knowing misrepresentation "Millie's Law".
2. Add exception for rapid fentanyl test strips to proposed law.
3. Change the additional penalty for an individual who knowingly misrepresents or knowingly markets a mixture of substance containing fentanyl from three years to five years.
4. Increase the maximum possible penalty from three years to five years.