AMENDED

March 1, 2022

**S. 429**

Introduced by Senators Alexander, Senn, and Loftis

S. Printed 3/1/22--S.

Read the first time January 12, 2021.

**A** **BILL**

TO AMEND ARTICLE 1, CHAPTER 3, TITLE 16 OF THE 1976 CODE, RELATING TO HOMICIDE, BY ADDING SECTION 16‑3‑80, TO CREATE THE OFFENSE OF DRUG-INDUCED HOMICIDE, TO PROVIDE A PENALTY FOR A VIOLATION, AND TO PROHIBIT AN AFFIRMATIVE DEFENSE; AND TO AMEND SECTION 16-1-10(D) OF THE 1976 CODE, RELATING TO A LIST OF EXCEPTIONS FOR FELONIES AND MISDEMEANORS, TO ADD DRUG-INDUCED HOMICIDE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16-3-80. (A) A person who unlawfully delivers, dispenses, or otherwise provides a fentanyl or a fentanyl-related substance as defined in Section 44-53-190(B) and Section 44-53-210(c)(6) to another person, in violation of the provisions of Section 44-53-370, if the proximate cause of the death of any other person is the injection, inhalation, absorption, or ingestion of any amount of the fentanyl or fentanyl-related substance, commits the felony offense of fentanyl-induced homicide.

(B) A person convicted of a fentanyl-induced homicide pursuant to the provisions of this section must be imprisoned not more than thirty years.

(C) It is not a defense pursuant to this section that a decedent contributed to his own death by his purposeful, knowing, reckless, or negligent injection, inhalation, absorption, or ingestion of the controlled substance or by his consenting to the administration of the controlled substance by another person.”

SECTION 2. Section 16-1-10(D) of the 1976 Code is amended by adding a new offense to read:

“16-3-80 Fentanyl-induced homicide”

SECTION 3. Section 44‑53‑190(B) of the 1976 Code is amended by adding an appropriately numbered new item at the end to read:

“\_\_. Fentanyl‑related substances. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, that is structurally related to fentanyl by one or more of the following modifications:

a. replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

b. substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

c. substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

d. replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

e. replacement of the N‑propionyl group by another acyl group or hydrogen.

This definition includes, but is not limited to, the following substances: Methylacetyl fentanyl, Alpha‑methylfentanyl, Methylthiofentanyl, Benzylfentanyl, Beta‑hydroxyfentanyl, Beta‑hydroxy‑3‑methylfentanyl, 3‑Methylfentanyl, Methylthiofentanyl, Fluorofentanyl, Thenylfentanyl or Thienyl fentanyl, Thiofentanyl, Acetylfentanyl, Butyrylfentanyl, Beta‑Hydroxythiofentanyl, Lofentanil, Ocfentanil, Ohmfentanyl, Benzodioxolefentanyl, Furanyl fentanyl, Pentanoyl fentanyl, Cyclopentyl fentanyl, Isobutyryl fentanyl, Remifentanil, Crotonyl fentanyl, Cyclopropyl fentanyl, Valeryl fentanyl, Fluorobutyryl fentanyl, Fluoroisobutyryl fentanyl, Methoxybutyryl Fentanyl, Isobutyryl fentanyl, Chloroisobutyryl fentanyl, Acryl fentanyl, Tetrahydrofuran fentanyl, Methoxyacetyl fentanyl, Fluorocrotonyl fentanyl, Cyclopentenyl fentanyl, Phenyl fentanyl, Cyclobutyl fentanyl, Methylcyclopropyl fenantyl.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent, or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

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