COMMITTEE AMENDMENT ADOPTED

March 1, 2022

**S. 458**

Introduced by Senators Adams, Talley, Bennett, Senn, Alexander, and Loftis

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

Read the first time January 13, 2021.

**A** **BILL**

TO AMEND SECTIONS 44-53-190(B) AND 44‑53‑370(e) OF THE 1976 CODE, RELATING IN PART TO THE TRAFFICKING OFFENSES FOR CERTAIN CONTROLLED SUBSTANCES, TO ADD AN OFFENSE FOR “TRAFFICKING IN FENTANYL”, AND TO DEFINE NECESSARY TERMS.

Amend Title To Conform

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

SECTION 1. 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.

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 2. Section 44‑53‑370(e) of the 1976 Code is amended by adding an appropriately numbered new item at the end to read:

“( ) four grams or more of any fentanyl or fentanyl‑related substance, as described in Section 44‑53‑190 or 44‑53‑210, or four grams or more of any mixture containing fentanyl or any fentanyl-related substance, is guilty of a felony which is known as ‘trafficking in fentanyl’ and, upon conviction, must be punished as follows:

(a) for a first offense, a term of imprisonment of not more than twenty years, no part of which may be suspended or probation granted, and a fine of fifty thousand dollars; or

(b) for a second or subsequent offense, a term of imprisonment of not more than thirty years, no part of which may be suspended or probation granted, and a fine of one hundred thousand dollars.”

SECTION 3. 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 4. This act takes effect upon approval by the Governor.

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