**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3476**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pope, Gilliam, Wooten, Carter, McCravy, Lawson, Chapman, Leber, Taylor, Guffey, O'Neal, Oremus, M.M. Smith, Davis and Landing

Companion/Similar bill(s): 1, 238, 586

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Introduced in the House on January 10, 2023

Currently residing in the House

Summary: Homicide, fentanyl-induced

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/8/2022 House Prefiled

 12/8/2022 House Referred to Committee on **Judiciary**

 1/10/2023 House Introduced and read first time (House Journal‑page 181)

 1/10/2023 House Referred to Committee on **Judiciary** (House Journal‑page 181)

 1/19/2023 House Member(s) request name added as sponsor: Oremus,
 M.M. Smith, Davis

 2/1/2023 House Member(s) request name added as sponsor: Landing

 1/31/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3476_20221208.docx)

[01/31/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3476_20230131.docx)

A bill

to amend the South Carolina Code of Laws by adding Section 16‑3‑80 so as to create the offense of fentanyl‑induced homicide, TO provide a penalty for a violation, and to prohibit an affirmative defense; by amending Section 16‑1‑60, relating to the definition of a violent crime, so as to add the offense of fentanyl‑induced homicide; and by amending Section 44‑53‑190, relating to schedule i controlled substances, so as to add fentanyl‑related substances.

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

SECTION 1. Article 1, Chapter 3, Title 16 of the S.C. 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 16‑1‑60 of the S.C. Code is amended to read:

 Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10); attempted murder (Section 16‑3‑29); fentanyl‑induced homicide (Section 16‑3‑80), assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)), criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first, second, and third degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B)); kidnapping (Section 16‑3‑910); trafficking in persons (Section 16‑3‑2020); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); domestic violence of a high and aggravated nature (Section 16‑25‑65); domestic violence in the first degree (Section 16‑25‑20(B)); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑11‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); sexual exploitation of a minor first degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator's failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.

SECTION 3. Section 44‑53‑190(B) of the S.C. Code is amended by adding an item to read:

 48. 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; 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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