

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB23-109 be amended as follows:

1 Amend printed bill, page 2, strike lines 2 and 3 and substitute:

2 "SECTION 1. In Colorado Revised Statutes, 18-18-405, **amend**  
3 (2)(a)(III) as follows:".

4 Page 2, strike lines 11 through 17 and substitute:

5 "(III) (A) Except as provided in section 18-1-711 (3)(i), the  
6 defendant committed a violation of ~~subsection (2)(a)(I)(D), (2)(b)(I)(D),~~  
7 ~~or (2)(c)(V) SUBSECTION (2)(a)(I), (2)(b)(I), OR (2)(c) of this section, and~~  
8 the actions in violation of ~~subsection (2)(a)(I)(D), (2)(b)(I)(D), or~~  
9 ~~(2)(c)(V) SUBSECTION (2)(a)(I), (2)(b)(I), OR (2)(c) of this section are the~~  
10 proximate cause of the death of another person who used or consumed the  
11 material, compound, mixture, or preparation that contained ~~fentanyl,~~  
12 ~~carfentanil, benzimidazole opiate, or an analog thereof as described in~~  
13 ~~section 18-18-204 (2)(g) ANY AMOUNT OF A SCHEDULE I OR SCHEDULE II~~  
14 CONTROLLED SUBSTANCE.

15 (B) Notwithstanding subsection (2)(a)(III)(A) of this section, a  
16 defendant who committed a violation of ~~subsection (2)(c)(V) SUBSECTION~~  
17 ~~(2)(c) of this section, and the actions in violation of subsection (2)(c)(V)~~  
18 SUBSECTION (2)(c) of this section are the proximate cause of the death of  
19 another person who used or consumed the material, compound, mixture,  
20 or preparation that contained ~~fentanyl, carfentanil, benzimidazole opiate,~~  
21 ~~or an analog thereof as described in section 18-18-204 (2)(g) ANY~~  
22 AMOUNT OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, is  
23 not subject to the mandatory sentencing requirement as described in  
24 section 18-1.3-401.5 (7).

25 SECTION 2. In Colorado Revised Statutes, 18-1.3-401.5, **amend**  
26 (10)(a)(V) as follows:

27 **18-1.3-401.5. Drug felonies classified - presumptive and**  
28 **aggravated penalties - legislative intent.** (10) (a) Except for a level 1  
29 drug felony, the presence of one or more of the following aggravating  
30 circumstances at the time of the commission of a drug felony offense  
31 requires the court, if it sentences the defendant to incarceration, to  
32 sentence the defendant to a term of at least the midpoint in the  
33 presumptive range but not more than the maximum term of the  
34 aggravated range:

35 (V) The defendant committed a violation of section 18-18-405  
36 (2)(a)(III)(A), and the unlawful distribution, manufacturing, dispensing,  
37 or sale of the material, compound, mixture, or preparation weighed ~~more~~  
38 ~~than fifty grams and contained fentanyl, carfentanil, benzimidazole~~  
39 ~~opiate~~, MORE THAN TWO HUNDRED TWENTY-FIVE GRAMS AND CONTAINS

1 A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE; MORE THAN ONE  
2 HUNDRED TWELVE GRAMS AND CONTAINS METHAMPHETAMINE, HEROIN,  
3 KETAMINE, OR CATHINONES; MORE THAN FIFTY MILLIGRAMS AND  
4 CONTAINS FLUNITRAZEPAM; OR MORE THAN FIFTY GRAMS AND CONTAINS  
5 FENTANYL, CARGENTANIL, BENZIMIDAZOLE OPIATE, or an analog thereof  
6 as described in section 18-18-204 (2)(g).".

7 Renumber succeeding section accordingly.  
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