

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~~ ~~section 18-18-204 (2)(g)~~ ANY AMOUNT OF A SCHEDULE I OR SCHEDULE II
13 CONTROLLED SUBSTANCE.

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

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

26 **18-1.3-401.5. Drug felonies classified - presumptive and
27 aggravated penalties - legislative intent.** (10) (a) Except for a level 1
28 drug felony, the presence of one or more of the following aggravating
29 circumstances at the time of the commission of a drug felony offense
30 requires the court, if it sentences the defendant to incarceration, to
31 sentence the defendant to a term of at least the midpoint in the
32 presumptive range but not more than the maximum term of the
33 aggravated range:

34 (V) The defendant committed a violation of section 18-18-405
35 (2)(a)(III)(A), and the unlawful distribution, manufacturing, dispensing,
36 or sale of the material, compound, mixture, or preparation weighed ~~more~~
37 ~~than fifty grams and contained fentanyl, carfentanil, benzimidazole~~
38 ~~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, CARENTANIL, BENZIMIDAZOLE OPIATE, or an analog thereof
6 as described in section 18-18-204 (2)(g).".

7 Renumber succeeding section accordingly.

*** * * * *