

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0813.01 Jacob Baus x2173

HOUSE BILL 24-1306

HOUSE SPONSORSHIP

Lynch,

SENATE SPONSORSHIP

Pelton B.,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AN INCREASE IN THE CRIMINAL PENALTY ASSOCIATED
102 WITH POSSESSION OF SYNTHETIC OPIATES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, the knowing possession of any material, compound, mixture, or preparation that weighs more than one gram and not more than 4 grams and contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, is a level 4 drug felony; except that, if a defendant shows supporting evidence to establish that the defendant made a reasonable mistake of fact and did not know that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

controlled substance contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, the matter must be submitted to the finder of fact in the form of interrogatory included in the verdict form. If the finder of fact determines the defendant made a reasonable mistake of fact, the defendant commits a level 1 drug misdemeanor. The bill eliminates this provision.

Under current law, the knowing possession of any material, compound, mixture, or preparation that weighs not more than one gram and contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, is a level 1 drug misdemeanor; except that a fourth or subsequent offense is a level 4 drug felony. The bill eliminates this provision.

Effective July 1, 2024, the bill makes the possession of any material, compound, mixture, or preparation that contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, a level 4 drug felony.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-18-403.5, **amend**
3 (2.5) as follows:

4 **18-18-403.5. Unlawful possession of a controlled substance -**
5 **notice to revisor of statutes - repeal.** (2.5) (a) Notwithstanding
6 ~~subsection (2)(c)~~ SUBSECTION (2) of this section, on or after July 1, 2022
7 JULY 1, 2024, a person who violates subsection (1) of this section by
8 ~~knowingly~~ possessing ANY MATERIAL, COMPOUND, MIXTURE, OR
9 PREPARATION THAT CONTAINS ANY QUANTITY OF FENTANYL,
10 CARFENTANIL, BENZIMIDAZOLE OPIATE, OR AN ANALOG THEREOF, AS
11 DESCRIBED IN SECTION 18-18-204 (2)(g), COMMITS A LEVEL 4 DRUG
12 FELONY.

13 ~~(f) Any material, compound, mixture, or preparation that weighs~~
14 ~~more than one gram and not more than four grams and contains any~~
15 ~~quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog~~
16 ~~thereof as described in section 18-18-204 (2)(g), commits a level 4 drug~~

1 felony;

2 (H) ~~Any material, compound, mixture, or preparation that weighs~~
3 ~~not more than one gram and contains any quantity of fentanyl, carfentanil,~~
4 ~~benzimidazole opiate, or an analog thereof as described in section~~
5 ~~18-18-204 (2)(g), commits a level 1 drug misdemeanor; except that a~~
6 ~~fourth or subsequent offense for a violation of this subsection (2.5)(a)(H)~~
7 ~~is a level 4 drug felony.~~

8 (b) ~~Notwithstanding the provisions of section 18-18-403.5~~
9 ~~(2.5)(a)(I) of this section, when a defendant shows supporting evidence~~
10 ~~to establish that he or she made a reasonable mistake of fact and did not~~
11 ~~know that the controlled substance he or she possessed contained~~
12 ~~fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as~~
13 ~~described in section 18-18-204 (2)(g), the matter shall be submitted to the~~
14 ~~finder of fact in the form of an interrogatory included in the verdict form.~~
15 ~~Should the finder of fact determine the defendant made such a reasonable~~
16 ~~mistake of fact, the defendant commits a level 1 drug misdemeanor.~~

17 **SECTION 2. Effective date - applicability.** This act takes effect
18 July 1, 2024, and applies to offenses committed on or after said date.

19 **SECTION 3. Safety clause.** The general assembly finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety or for appropriations for
22 the support and maintenance of the departments of the state and state
23 institutions.