

Committee on Criminal Justice

CS/CS/HB 1359 — Offenses Involving Fentanyl or Fentanyl Analogs

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Abbott and others (CS/CS/CS/SB 1226 by Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Burgess)

The bill (Chapter 2023-26, L.O.F.) amends s. 893.13, F.S., to provide that it is a first degree felony with a 3-year mandatory minimum term of imprisonment if:

- A person sells, manufactures, or delivers, or possesses with intent to sell, manufacture, or deliver, fentanyl, a specified fentanyl-related substance, a fentanyl derivative, an analog of any of these substances, or a mixture of any of these substances; and
- The previously described substance or mixture is in a form that resembles, or is mixed, granulated, absorbed, spray dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:
 - Resembles the trade dress of a consumer food product, branded food product, or logo food product;
 - Incorporates an actual or fake registered trademark, service mark, or copyright;
 - Resembles cereal, candy, a vitamin, a gummy, or a chewable product, such as a gum or gelatin-based product; or
 - Contains a cartoon character imprint.

The bill also amends s. 893.135, F.S., the drug trafficking statute, to provide that it is a first degree felony with a mandatory minimum term of 25 years to life imprisonment and a mandatory fine of \$1 million for a person 18 years of age or older to:

- Knowingly sell or deliver to a minor at least 4 grams of fentanyl or a previously described substance, analog, or mixture; and
- The substance or mixture is in a form that resembles, or is mixed, granulated, absorbed, spray dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the attributes previously described such as resembling cereal or candy.

These provisions were approved by the Governor and take effect October 1, 2023.

Vote: Senate 37-0; House 115-0