

HB1 INTRODUCED



1 BYAXQJ-1
2 By Representatives Simpson, Brown C., Marques, Stringer,
3 Stadthagen, Sorrells, Collins, Ledbetter, Pringle,
4 Easterbrook, Pettus, Kiel, Colvin, Estes, Woods
5 RFD: Judiciary
6 First Read: 07-Mar-23
7 PFD: 20-Jan-23



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SYNOPSIS:

Under existing law, there is a mandatory sentencing scheme in place which includes mandatory terms of imprisonment and fines for any person who knowingly sells, manufactures, delivers, or is in possession of various controlled substances. The terms of imprisonment and fines are determined by the weight of the controlled substance involved in the offense.

Under existing law, a person who knowingly sells, manufactures, delivers, or is in possession of four or more grams of any mixture containing Fentanyl, or any synthetic controlled substance Fentanyl analogue, is subject to various mandatory terms of imprisonment and fines.

Existing law provides only for fines concerning the unlawful sale, manufacture, delivery, or possession of Fentanyl as a single component.

This bill would provide for mandatory terms of imprisonment for a person who engages in the unlawful sale, manufacture, delivery, or possession of one or more grams of Fentanyl as a single component.

This bill would also impose additional criminal penalties for subsequent violations.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect



29 would be to require a new or increased expenditure of
30 local funds from becoming effective with regard to a
31 local governmental entity without enactment by a 2/3
32 vote unless: it comes within one of a number of
33 specified exceptions; it is approved by the affected
34 entity; or the Legislature appropriates funds, or
35 provides a local source of revenue, to the entity for
36 the purpose.

37 The purpose or effect of this bill would be to
38 require a new or increased expenditure of local funds
39 within the meaning of the amendment. However, the bill
40 does not require approval of a local governmental
41 entity or enactment by a 2/3 vote to become effective
42 because it comes within one of the specified exceptions
43 contained in the amendment.

44

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A BILL

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TO BE ENTITLED

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AN ACT

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49 Relating to controlled substances; to amend Section
50 13A-12-231, Code of Alabama 1975; to add mandatory minimums
51 for certain felony drug trafficking crimes; to provide for
52 additional penalties for subsequent offenses; and in
53 connection therewith would have as its purpose or effect the
54 requirement of a new or increased expenditure of local funds
55 within the meaning of Section 111.05 of the Constitution of
56 Alabama of 2022.



57 Section 1. Section 13A-12-231, Code of Alabama 1975, is
58 amended to read as follows:

59 "§13A-12-231

60 Except as authorized in Chapter 2, Title 20:

61 (1) Any person who knowingly sells, manufactures,
62 delivers, or brings into this state, or who is knowingly in
63 actual or constructive possession of, in excess of one kilo or
64 2.2 pounds of any part of the plant of the genus Cannabis,
65 whether growing or not, the seeds thereof, the resin extracted
66 from any part of the plant, and every compound, manufacture,
67 salt, derivative, mixture, or preparation of the plant, its
68 seeds, or resin including the completely defoliated mature
69 stalks of the plant, fiber produced from the stalks, oil, or
70 cake, or the completely sterilized samples of seeds of the
71 plant which are incapable of germination is guilty of a
72 felony, which ~~felony~~ shall be known as "trafficking in
73 cannabis." Nothing in this subdivision shall apply to samples
74 of tetrahydrocannabinols including, but not limited to, all
75 synthetic or naturally produced samples of
76 tetrahydrocannabinols which contain more than 15 percent by
77 weight of tetrahydrocannabinols and which do not contain plant
78 material exhibiting the external morphological features of the
79 plant cannabis. If the quantity of cannabis involved:

80 a. Is in excess of one kilo or 2.2 pounds, but less
81 than 100 pounds, the person shall be sentenced to a mandatory
82 minimum term of imprisonment of three calendar years and to
83 pay a fine of twenty-five thousand dollars (\$25,000).

84 b. Is 100 pounds or more, but less than 500 pounds, the



85 person shall be sentenced to a mandatory minimum term of
86 imprisonment of five calendar years and to pay a fine of fifty
87 thousand dollars (\$50,000).

88 c. Is 500 pounds or more, but less than 1,000 pounds,
89 the person shall be sentenced to a mandatory minimum term of
90 imprisonment of 15 calendar years and to pay a fine of two
91 hundred thousand dollars (\$200,000).

92 d. Is 1,000 pounds or more, the person shall be
93 sentenced to a mandatory term of imprisonment of life.

94 (2) Any person who knowingly sells, manufactures,
95 delivers, or brings into this state, or who is knowingly in
96 actual or constructive possession of, 28 grams or more of
97 cocaine or of any mixture containing cocaine, described in
98 Section 20-2-25(1), is guilty of a felony, which ~~felony~~ shall
99 be known as "trafficking in cocaine." If the quantity
100 involved:

101 a. Is 28 grams or more, but less than 500 grams, the
102 person shall be sentenced to a mandatory minimum term of
103 imprisonment of three calendar years and to pay a fine of
104 fifty thousand dollars (\$50,000).

105 b. Is 500 grams or more, but less than one kilo, the
106 person shall be sentenced to a mandatory minimum term of
107 imprisonment of five calendar years and to pay a fine of one
108 hundred thousand dollars (\$100,000).

109 c. Is one kilo, but less than 10 kilos, ~~then~~ the person
110 shall be sentenced to a mandatory minimum term of imprisonment
111 of 15 calendar years and to pay a fine of two hundred fifty
112 thousand dollars (\$250,000).



113 d. Is 10 kilos or more, the person shall be sentenced
114 to a mandatory term of imprisonment of life.

115 (3) Any person, except as otherwise authorized by law,
116 who knowingly sells, manufactures, delivers, or brings into
117 this state, or who is knowingly in actual or constructive
118 possession of, four grams or more of any morphine, opium, or
119 any salt, isomer, or salt of an isomer thereof, including
120 heroin, as described in Section 20-2-23(b)(2) or Section
121 20-2-25(1)a., or four grams or more of any mixture containing
122 any such substance, or any mixture containing Fentanyl or any
123 synthetic controlled substance Fentanyl analogue, as described
124 in Sections 20-2-23 and 20-2-25, is guilty of a felony, which
125 ~~felony~~ shall be known as "trafficking in illegal drugs." If
126 the quantity involved:

127 a. Is four grams or more, but less than 14 grams, the
128 person shall be sentenced to a mandatory minimum term of
129 imprisonment of three calendar years and to pay a fine of
130 fifty thousand dollars (\$50,000).

131 b. Is 14 grams or more, but less than 28 grams, the
132 person shall be sentenced to a mandatory minimum term of
133 imprisonment of 10 calendar years and to pay a fine of one
134 hundred thousand dollars (\$100,000).

135 c. Is 28 grams or more, but less than 56 grams, the
136 person shall be sentenced to a mandatory minimum term of
137 imprisonment of 25 calendar years and to pay a fine of five
138 hundred thousand dollars (\$500,000).

139 d. Is 56 grams or more, the person shall be sentenced
140 to a mandatory term of imprisonment of life.



141 (4) Any person who knowingly sells, manufactures,
142 delivers, or brings into this state, or who is knowingly in
143 actual or constructive possession of 1,000 or more pills or
144 capsules of methaqualone, as described in Section 20-2-1, et
145 seq., is guilty of a felony, ~~which~~-felony shall be known as
146 "trafficking in illegal drugs." If the quantity involved:

147 a. Is 1,000 pills or capsules, but less than 5,000
148 pills or capsules, the person shall be sentenced to a
149 mandatory minimum term of imprisonment of three calendar years
150 and pay a fine of fifty thousand dollars (\$50,000).

151 b. Is 5,000 capsules or more, but less than 25,000
152 capsules, ~~that~~-the person shall be imprisoned to a mandatory
153 minimum term of imprisonment of 10 calendar years and pay a
154 fine of one hundred thousand dollars (\$100,000).

155 c. Is 25,000 pills or more, but less than 100,000 pills
156 or capsules, the person shall be sentenced to a mandatory
157 minimum term of imprisonment of 25 calendar years and pay a
158 fine of five hundred thousand dollars (\$500,000).

159 d. Is 100,000 capsules or more, the person shall be
160 sentenced to a mandatory term of imprisonment of life.

161 (5) Any person who knowingly sells, manufactures,
162 delivers, or brings into this state, or who is knowingly in
163 actual or constructive possession of 500 or more pills or
164 capsules of hydromorphone, as is described in Section 20-2-1,
165 et seq., is guilty of a felony, which shall be known as
166 "trafficking in illegal drugs." If the quantity involved:

167 a. Is 500 pills or capsules or more but less than 1,000
168 pills or capsules, the person shall be sentenced to a



169 mandatory term of imprisonment of three calendar years and to
170 pay a fine of fifty thousand dollars (\$50,000).

171 b. Is 1,000 pills or capsules or more, but less than
172 4,000 pills or capsules, the person shall be sentenced to a
173 mandatory term of imprisonment of 10 calendar years and to pay
174 a fine of one hundred thousand dollars (\$100,000).

175 c. Is 4,000 pills or capsules or more but less than
176 10,000 pills or capsules, the person shall be sentenced to a
177 mandatory term of imprisonment of 25 calendar years and to pay
178 a fine of one hundred thousand dollars (\$100,000).

179 d. Is more than 10,000 pills or capsules, the person
180 shall be sentenced to a mandatory term of life.

181 (6) Any person who knowingly sells, manufactures,
182 delivers, or brings into this state, or who is knowingly in
183 actual or constructive possession of, 28 grams or more of
184 3,4-methylenedioxy amphetamine, or of any mixture containing
185 3,4-methylenedioxy amphetamine, is guilty of a felony, which
186 ~~felony~~ shall be known as "trafficking in illegal drugs." If
187 the quantity involved:

188 a. Is 28 grams or more, but less than 500 grams, the
189 person shall be sentenced to a mandatory minimum term of
190 imprisonment of three calendar years and to pay a fine of
191 fifty thousand dollars (\$50,000).

192 b. Is 500 grams or more, but less than one kilo, the
193 person shall be sentenced to a mandatory minimum term of
194 imprisonment of five calendar years and to pay a fine of one
195 hundred thousand dollars (\$100,000).

196 c. Is one kilo, but less than 10 kilos, ~~then~~ the person



197 shall be sentenced to a mandatory minimum term of imprisonment
198 of 15 calendar years and to pay a fine of two hundred fifty
199 thousand dollars (\$250,000).

200 d. Is 10 kilos or more, the person shall be sentenced
201 to a mandatory term of imprisonment of life.

202 (7) Any person who knowingly sells, manufactures,
203 delivers, or brings into this state, or who is knowingly in
204 actual or constructive possession of, 28 grams or more of
205 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture
206 containing 5-methoxy-3, 4-methylenedioxy amphetamine, is
207 guilty of a felony, which ~~felony~~ shall be known as
208 "trafficking in illegal drugs." ~~if~~ If the quantity involved:

209 a. Is 28 grams or more, but less than 500 grams, the
210 person shall be sentenced to a mandatory minimum term of
211 imprisonment of three calendar years and to pay a fine of
212 fifty thousand dollars (\$50,000).

213 b. Is 500 grams or more, but less than one kilo, the
214 person shall be sentenced to a mandatory minimum term of
215 imprisonment of five calendar years and to pay a fine of one
216 hundred thousand dollars (\$100,000).

217 c. Is one kilo, but less than 10 kilos, ~~then~~ the person
218 shall be sentenced to a mandatory minimum term of imprisonment
219 of 15 calendar years and to pay a fine of two hundred fifty
220 thousand dollars (\$250,000).

221 d. Is 10 kilos or more, the person shall be sentenced
222 to a mandatory term of imprisonment of life.

223 (8) Any person who knowingly sells, manufactures,
224 delivers, or brings into this state, or who is knowingly in



225 actual or constructive possession of, four grams or more of
226 phencyclidine, or any mixture containing phencyclidine, is
227 guilty of a felony, which ~~felony~~ shall be known as
228 "trafficking in illegal drugs." If the quantity involved:

229 a. Is four grams or more, but less than 14 grams, the
230 person shall be sentenced to a mandatory minimum term of
231 imprisonment of three calendar years and to pay a fine of
232 fifty thousand dollars (\$50,000).

233 b. Is 14 grams or more, but less than 28 grams, the
234 person shall be sentenced to a mandatory minimum term of
235 imprisonment of five calendar years and to pay a fine of one
236 hundred thousand dollars (\$100,000).

237 c. Is 28 grams or more, but less than 56 grams, ~~then~~
238 the person shall be sentenced to a mandatory minimum term of
239 imprisonment of 15 calendar years and to pay a fine of two
240 hundred fifty thousand dollars (\$250,000).

241 d. Is 56 grams or more, the person shall be sentenced
242 to a mandatory term of imprisonment of life.

243 (9) Any person who knowingly sells, manufactures,
244 delivers, or brings into this state, or who is knowingly in
245 actual or constructive possession of, four grams or more of
246 lysergic acid diethylamide, ~~or~~ or four grams or more of any
247 mixture containing lysergic acid diethylamide, is guilty of a
248 felony, which ~~felony~~ shall be known as "trafficking in illegal
249 drugs." If the quantity involved:

250 a. Is four grams or more, but less than 14 grams, the
251 person shall be sentenced to a mandatory minimum term of
252 imprisonment of three calendar years and to pay a fine of



253 fifty thousand dollars (\$50,000).

254 b. Is 14 grams or more, but less than 28 grams, the
255 person shall be sentenced to a mandatory minimum term of
256 imprisonment of 10 calendar years and to pay a fine of one
257 hundred thousand dollars (\$100,000).

258 c. Is 28 grams or more, but less than 56 grams, the
259 person shall be sentenced to a mandatory minimum term of
260 imprisonment of 25 calendar years and to pay a fine of five
261 hundred thousand dollars (\$500,000).

262 d. Is 56 grams or more, the person shall be sentenced
263 to a mandatory term of imprisonment of life.

264 (10) Any person who knowingly sells, manufactures,
265 delivers, or brings into this state, or who is knowingly in
266 actual or constructive possession of, 28 grams or more of
267 amphetamine or any mixture containing amphetamine, its salt,
268 optical isomer, or salt of its optical isomer thereof, is
269 guilty of a felony, which ~~felony~~ shall be known as
270 "trafficking in amphetamine." If the quantity involved:

271 a. Is 28 grams or more but less than 500 grams, the
272 person shall be sentenced to a mandatory minimum term of
273 imprisonment of three calendar years and to pay a fine of
274 fifty thousand dollars (\$50,000).

275 b. Is 500 grams or more, but less than one kilo, the
276 person shall be sentenced to a mandatory minimum term of
277 imprisonment of five calendar years and to pay a fine of one
278 hundred thousand dollars (\$100,000).

279 c. Is one kilo but less than 10 kilos, ~~then~~ the person
280 shall be sentenced to a mandatory minimum term of imprisonment



281 of 15 calendar years and to pay a fine of two hundred fifty
282 thousand dollars (\$250,000).

283 d. Is 10 kilos or more, the person shall be sentenced
284 to a mandatory term of imprisonment of life.

285 (11) Any person who knowingly sells, manufactures,
286 delivers, or brings into this state, or who is knowingly in
287 actual or constructive possession of, 28 grams or more of
288 methamphetamine or any mixture containing methamphetamine, its
289 salts, optical isomers, or salt of its optical isomers
290 thereof, is guilty of a felony, which ~~felony~~ shall be known as
291 "trafficking in methamphetamine." If the quantity involved:

292 a. Is 28 grams or more but less than 500 grams, the
293 person shall be sentenced to a mandatory minimum term of
294 imprisonment of three calendar years and to pay a fine of
295 fifty thousand dollars (\$50,000).

296 b. Is 500 grams or more, but less than one kilo, the
297 person shall be sentenced to a mandatory minimum term of
298 imprisonment of five calendar years and to pay a fine of one
299 hundred thousand dollars (\$100,000).

300 c. Is one kilo but less than 10 kilos, ~~then~~ the person
301 shall be sentenced to a mandatory minimum term of imprisonment
302 of 15 calendar years and to pay a fine of two hundred fifty
303 thousand dollars (\$250,000).

304 d. Is 10 kilos or more, the person shall be sentenced
305 to a mandatory term of imprisonment of life.

306 (12) Any person who knowingly sells, manufactures,
307 delivers, or brings into this state, or who is knowingly in
308 actual or constructive possession of 56 or more grams of a



309 synthetic controlled substance or a synthetic controlled
310 substance analogue, as described in ~~subdivision (4) or (5) of~~
311 ~~subsection (a) of~~ Section 20-2-23 (a) (4) or (5), except for any
312 synthetic controlled substance Fentanyl analogue referenced in
313 subdivision (13), is guilty of a felony, which ~~felony~~ shall be
314 known as "trafficking in synthetic controlled substances." If
315 the quantity involved:

316 a. Is 56 grams or more, but less than 500 grams, the
317 person shall be sentenced to a mandatory minimum term of
318 imprisonment of three calendar years and to pay a fine of
319 fifty thousand dollars (\$50,000).

320 b. Is 500 grams or more, but less than 1 kilo, the
321 person shall be sentenced to a mandatory minimum term of
322 imprisonment of 10 calendar years and to pay a fine of one
323 hundred thousand dollars (\$100,000).

324 c. Is one kilo, but less than 10 kilos, ~~then~~ the person
325 shall be sentenced to a mandatory minimum term of imprisonment
326 of 15 calendar years and to pay a fine of two hundred fifty
327 thousand dollars (\$250,000).

328 d. Is 10 kilos or more, the person shall be sentenced
329 to a mandatory term of imprisonment of life.

330 (13) Any person, unless otherwise authorized by law,
331 who knowingly sells, manufactures, delivers, or brings into
332 this state, or who is knowingly in actual or constructive
333 possession of, one gram or more of Fentanyl or any synthetic
334 controlled substance Fentanyl analogue, as a single component
335 as described in Sections 20-2-23 and 20-2-25, is guilty of a
336 felony, which ~~felony~~ shall be known as "trafficking in illegal



337 drugs." If the quantity involved:

338 a.1. Is one gram or more, but less than two grams, the
339 person shall be ~~ordered~~ sentenced to a mandatory minimum term
340 of imprisonment of three calendar years and to pay a minimum
341 fine of fifty thousand dollars (\$50,000).

342 b.2. Is two grams or more, but less than four grams,
343 the person shall be ~~ordered~~ sentenced to a mandatory minimum
344 term of imprisonment of 10 calendar years and to pay a minimum
345 fine of one hundred thousand dollars (\$100,000).

346 e.3. Is four grams or more, but less than eight grams,
347 the person shall be ~~ordered~~ sentenced to a mandatory minimum
348 term of imprisonment of 25 calendar years and to pay a minimum
349 fine of five hundred thousand dollars (\$500,000).

350 d.4. Is eight grams or more, the person shall be
351 ~~ordered~~ sentenced to a mandatory term of imprisonment of life
352 and to pay a minimum fine of seven hundred fifty thousand
353 dollars (\$750,000).

354 b.1. Notwithstanding any provision of law, in addition
355 to any penalties provided by law, upon a second conviction of
356 this subdivision, the person shall be sentenced to an
357 additional term of imprisonment of five calendar years, which
358 is not subject to suspension or probation.

359 2. Upon a third or subsequent conviction of this
360 subdivision, in addition to any penalties provided by law, the
361 person shall be sentenced to an additional term of
362 imprisonment of 10 calendar years, which is not subject to
363 suspension or probation.

364 (14) In lieu of the weight ranges listed in subdivision



365 (12), a person may instead be charged with trafficking any
366 substance listed in subdivisions (3) and (12) if that person
367 possesses 50 or more individual packages of that substance.
368 The person shall only be sentenced according to the sentence
369 range provision listed in paragraph a. of each subdivision for
370 the specific substance contained in the 50 or more individual
371 packages if charged pursuant to this subdivision, subdivision
372 (15), or subdivision (16), if applicable. In order to charge a
373 person pursuant to this subdivision, the same substance must
374 be contained in each of the 50 or more individual packages.

375 (15) The felonies of "trafficking in cannabis,"
376 "trafficking in cocaine," "trafficking in illegal drugs,"
377 "trafficking in amphetamine," "trafficking in
378 methamphetamine," and "trafficking in synthetic controlled
379 substances" as defined in subdivisions (1) through (14) ~~7~~
380 ~~above,~~ shall be treated as Class A felonies for purposes of
381 this title, including sentencing under Section 13A-5-9.
382 Provided, however, that the sentence of imprisonment for a
383 defendant with one or more prior felony convictions who
384 violates subdivisions (1) through (14) ~~of this section~~ shall
385 be the sentence provided therein, or the sentence provided
386 under Section 13A-5-9, whichever is greater. Provided further,
387 that the fine for a defendant with one or more prior felony
388 convictions who violates subdivisions (1) through (14) ~~of this~~
389 ~~section~~ shall be the fine provided therein, or the fine
390 provided under Section 13A-5-9, whichever is greater.

391 (16) Notwithstanding any provision of law to the
392 contrary, any person who has possession of a firearm during



393 the commission of any act proscribed by this section shall be
394 punished by a term of imprisonment of five calendar years,
395 which shall be in addition to, and not in lieu of, the
396 punishment otherwise provided, and a fine of twenty-five
397 thousand dollars (\$25,000); ~~the.~~ The court shall not suspend
398 the five-year additional sentence of the person or give the
399 person a probationary sentence."

400 Section 2. Although this bill would have as its purpose
401 or effect the requirement of a new or increased expenditure of
402 local funds, the bill is excluded from further requirements
403 and application under Section 111.05 of the Constitution of
404 Alabama of 2022, because the bill defines a new crime or
405 amends the definition of an existing crime.

406 Section 3. This act shall take effect on the first day
407 of the third month, following its passage and approval by the
408 Governor, or its otherwise becoming law.