



# House of Representatives

General Assembly

**File No. 772**

January Session, 2019

House Bill No. 5524

*House of Representatives, April 25, 2019*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT INCREASING THE PENALTIES FOR THE SALE OF FENTANYL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (30) of section 21a-240 of the general statutes  
2 is repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2019*):

4 (30) "Narcotic substance" means any of the following, whether  
5 produced directly or indirectly by extraction from [substances] a  
6 substance of vegetable origin, or independently by means of chemical  
7 synthesis, or by a combination of extraction and chemical synthesis:  
8 (A) Morphine-type: (i) Opium [and] or opiate, [and] or any salt,  
9 compound, derivative, or preparation of opium or opiate which [are] is  
10 similar [thereto] to any such substance in chemical structure or which  
11 [are] is similar [thereto] to any such substance in physiological effect  
12 and which [show] shows a like potential for abuse, which [are] is a  
13 controlled [substances] substance under this chapter unless modified;  
14 (ii) any salt, compound, isomer, derivative, or preparation [thereof] of

15 any such substance which is chemically equivalent or identical [with]  
 16 to any [of the substances] substance referred to in clause (i) of this  
 17 subdivision, but not including the isoquinoline alkaloids of opium; (iii)  
 18 opium poppy [and] or poppy straw; or (iv) (I) fentanyl or any salt,  
 19 compound, derivative or preparation of fentanyl which is similar to  
 20 any such substance in chemical structure or which is similar to any  
 21 such substance in physiological effect and which shows a like potential  
 22 for abuse, which is a controlled substance under this chapter unless  
 23 modified, or (II) any salt, compound, isomer, derivative or preparation  
 24 of any such substance which is chemically equivalent or identical to  
 25 any substance referred to in subclause (I) of this clause; or (B) cocaine-  
 26 type; [,] coca leaves [and] or any salt, compound, derivative or  
 27 preparation of coca leaves, [and] or any salt, compound, isomer,  
 28 derivatives or preparation [thereof] of any such substance which is  
 29 chemically equivalent or identical [with] to any [of these substances]  
 30 such substance or which [are] is similar [thereto] to any such substance  
 31 in physiological effect and which [show] shows a like potential for  
 32 abuse, but not including decocainized coca leaves or extractions of  
 33 coca leaves which do not contain cocaine or ecgonine;

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	21a-240(30)

**JUD**      *Joint Favorable*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 20 \$</b>	<b>FY 21 \$</b>
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill classifies fentanyl and fentanyl derivatives as a narcotic and thus increases the penalty for possession and related crimes. To the extent that future offenders receive higher fines and longer prison sentences under this bill, potential costs for incarceration or probation supervision in the community, or general fund revenue would result. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800<sup>1</sup> while the average marginal cost for supervision in the community is less than \$700<sup>2</sup> each year.

**The Out Years**

<sup>1</sup> Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

<sup>2</sup> Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

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**OLR Bill Analysis****HB 5524*****AN ACT INCREASING THE PENALTIES FOR THE SALE OF FENTANYL.*****SUMMARY**

This bill expressly codifies the classification of fentanyl (a synthetic opioid analgesic) as a narcotic substance. By regulation, the Department of Consumer Protection already classifies fentanyl as a narcotic substance (Conn. Agencies Reg., § 21a-243-8). By law, the penalties for certain illegal actions involving narcotics are higher than those for certain other non-narcotic controlled substances. These actions include illegally manufacturing, distributing, selling, and prescribing the substances (see BACKGROUND).

The bill provides that a “narcotic substance” includes (1) fentanyl or (2) any salt, compound, derivative, or preparation of fentanyl, which is a controlled substance unless modified, and that (a) is similar to it in chemical structure or in physiological effect and (b) shows a similar potential for abuse. It also includes any salt, compound, isomer, derivative, or preparation of any substance that is chemically equivalent or identical to fentanyl.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2019

**BACKGROUND*****Penalties***

It is illegal to manufacture, distribute, sell, prescribe, dispense, compound, transport or possess with intent to sell or dispense, offer, give, or administer to another any narcotic substance, except as

otherwise authorized by law. The penalty for these actions depends on a number of factors, including the amount and type of drug, the offender's age, the buyer's age, where the act takes place, whether the offender is addicted to drugs, and whether the act was a first or repeat offense.

Several crimes involving drug sales or related actions have mandatory minimum prison terms, although a judge can depart from the mandatory minimum for some crimes under certain circumstances. The penalties are generally enhanced when the crimes occur within 1,500 feet of a school, licensed day care center, or public housing project (CGS § 21a-278a).

Individuals convicted of selling narcotics generally face longer prison sentences and greater fines than those convicted of selling non-narcotic controlled substances. For example, a person convicted for a first offense of selling narcotics may be sentenced to up to 15 years in prison, fined up to \$50,000, or both. In contrast, a person convicted for a first offense of selling non-narcotic controlled substances may be sentenced to up to seven years in prison, fined up to \$25,000, or both (CGS §§ 21a-277(a)(2), 21a-278(b)(2) & 21a-277(b)(2)).

### ***Fentanyl***

According to the federal Centers for Disease Control and Prevention, fentanyl is a synthetic opioid analgesic that alleviates pain without causing loss of consciousness. It depresses central nervous system and respiratory functions and is estimated to be 80 times more potent than morphine and hundreds of times more potent than heroin.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 38    Nay 0    (04/09/2019)