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SENATE BILL DRS35131-MG-28A

Short Title: Amend NC Controlled Substances Act.

(Public)

Sponsors: Senators McInnis, Lazzara, and Edwards (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT REVISING THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 90-87 reads as rewritten:

5 "**§ 90-87. Definitions.**

6 As used in this Article:

7 ...

8 (14a) The term "isomer" means ~~any type of isomer, including structural, geometric,~~
9 ~~or optical isomers, and stereoisomers.~~ the optical isomer, unless otherwise
10 specified.

11 ...

12 (17) "Narcotic drug" means any of the following, whether produced directly or
13 indirectly by extraction from substances of vegetable origin, or independently
14 by means of chemical synthesis, or by a combination of extraction and
15 chemical synthesis:

- 16 a. Opium, opiate and opioid, and any salt, compound, derivative, or
17 preparation of opium, opiate, or opioid.
18 b. Any salt, compound, isomer, derivative, or preparation thereof which
19 is chemically equivalent or identical with any of the substances
20 referred to in clause a, but not including the isoquinoline alkaloids of
21 opium.
22 c. Opium poppy and poppy straw.
23 d. Cocaine and any salt, ~~isomer, isomer~~ (whether optical or geometric),
24 salts of isomers, compound, derivative, or preparation thereof, or coca
25 leaves and any salt, isomer, salts of isomers, compound, derivative or
26 preparation of coca leaves, or any salt, isomer, salts of isomers,
27 compound, derivative, or preparation thereof which is chemically
28 equivalent or identical with any of these substances, except that the
29 substances shall not include decocanized coca leaves or extraction of
30 coca leaves, which extractions do not contain cocaine or ecgonine.

31"

32 **SECTION 2.** G.S. 90-89 reads as rewritten:

33 "**§ 90-89. Schedule I controlled substances.**

34 This schedule includes the controlled substances listed or to be listed by whatever official
35 name, common or usual name, chemical name, or trade name designated. In determining that a
36 substance comes within this schedule, the Commission shall find: a high potential for abuse, no



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1 currently accepted medical use in the United States, or a lack of accepted safety for use in
2 treatment under medical supervision. The following controlled substances are included in this
3 schedule:

- 4 (1) Opiates. – Any of the following opiates or opioids, including the isomers,
5 esters, ethers, salts and salts of isomers, esters, and ethers, unless specifically
6 excepted, or listed in another schedule, whenever the existence of such
7 isomers, esters, ethers, and salts is possible within the specific chemical
8 designation:

9 ...

10 hh. Levophenacymorphan. For purposes of this sub-subdivision only, the
11 term "isomer" includes the optical and geometric isomers.

12 ...

13 mmm.

14 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropylbenz
15 amide (also known as Isopropyl-U-47700).

16 nnn.

17 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-met
18 hylacetamide (also known as U-51754).

19 ooo.

20 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-met
21 hylacetamide (also known as U-48800).

22 ppp. Isotonitazene.

23 qqq. Metonitazene.

24 rrr. Brorphine.

- 25 (1a) Fentanyl derivatives. – Any compounds–Unless specifically excepted, listed
26 in another schedule, or contained within a pharmaceutical product approved
27 by the United States Food and Drug Administration, any compound
28 structurally derived from
29 N-[1-(2-phenylethyl)-4-piperidiny]-N-phenylpropanamide (Fentanyl) by any
30 substitution on or replacement of the phenethyl group, any substitution on the
31 piperidine ring, any substitution on or replacement of the propanamide group,
32 any substitution on the anilido phenyl group, or any combination of the above
33 unless specifically excepted or listed in another schedule to include their salts,
34 isomers, and salts of isomers. Fentanyl derivatives include, but are not limited
35 to, the following:

36 ...

- 37 (2) Opium derivatives. – Any of the following opium derivatives, including their
38 salts, ~~isomers,~~ isomers (whether optical, positional, or geometric), and salts of
39 isomers, unless specifically excepted, or listed in another schedule, whenever
40 the existence of such salts, isomers, and salts of isomers is possible within the
41 specific chemical designation:

42 ...

- 43 (3) Hallucinogenic substances. – Any material, compound, mixture, or
44 preparation which contains any quantity of the following hallucinogenic
45 substances, including their salts, isomers, and salts of isomers, unless
46 specifically excepted, or listed in another schedule, whenever the existence of
47 such salts, ~~isomers,~~ isomers (whether optical, positional, or geometric), and
48 salts of isomers is possible within the specific chemical designation:

49 ...

50 nn. Substituted tryptamines. – Any compound, unless specifically
51 excepted, specifically named in this schedule, or listed under a

- 1 different schedule, structurally derived from
2 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or
3 di-substitution of the amine nitrogen with alkyl or alkenyl groups or
4 by inclusion of the amino nitrogen atom in a cyclic structure whether
5 or not the compound is further substituted at the alpha position with
6 an alkyl group or whether or not further substituted on the indole ring
7 to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy
8 groups. Substances in this class include, but are not limited to:
9 4-AcO-DiPT (4-acetoxy-N,N-diisopropyltryptamine), 4-HO-MPMI
10 ((R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydroxyindole), and DALT
11 (N,N-diallyltryptamine).
- 12 oo. Substituted phenylcyclohexylamines. – Any compound, unless
13 specifically excepted or unless listed in another schedule, or contained
14 within a pharmaceutical product approved by the United States Food
15 and Drug Administration, any material, compound, mixture, or
16 preparation containing a phenylcyclohexylamine structure, with or
17 without any substitution on the phenyl ring, any substitution on the
18 cyclohexyl ring, any replacement of the phenyl ring with a thiophenyl
19 or benzothiophenyl ring, with or without substitution on the amine
20 with alkyl, dialkyl, or alkoxy substituents, inclusion of the nitrogen in
21 a cyclic structure, or any combination of the above. Substances in this
22 class include, but are not limited to: BCP (benocyclidine), PCMPA
23 ((phenylcyclohexyl(methoxypropylamine)), and Hydroxy-PCP
24 ((hydroxyphenyl)cyclohexylpiperidine).
- 25 (4) Systemic depressants. – Any material compound, mixture, or preparation
26 which contains any quantity of the following substances having a depressant
27 effect on the central nervous system, including its salts, isomers, and salts of
28 isomers whenever the existence of such salts, isomers, and salts of isomers is
29 possible within the specific chemical designation, unless specifically excepted
30 or unless listed in another schedule:
31 ...
32 g. Clonazolam.
33 h. Flualprazolam.
34 i. Flubromazolam.
- 35 (5) Stimulants. – Unless specifically excepted or unless listed in another schedule,
36 any material, compound, mixture, or preparation that contains any quantity of
37 the following substances having a stimulant effect on the central nervous
38 system, including its salts, isomers, and salts of isomers:
39 ...
40 h. 4-methylmethcathinone (also known as mephedrone). For this
41 compound, the term "isomer" includes the optical, positional, or
42 geometric isomer.
43 i. 3,4-Methylenedioxypyrovalerone (also known as MDPV). For this
44 compound, the term "isomer" includes the optical, positional, or
45 geometric isomer.
46 j. Substituted cathinones. A compound, other than bupropion, that is
47 structurally derived from 2-amino-1-phenyl-1-propanone by
48 modification in any of the following ways: (i) by substitution in the
49 phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl,
50 or halide substituents, whether or not further substituted in the phenyl
51 ring by one or more other univalent substituents; (ii) by substitution at

1 the 3-position to any extent; or (iii) by substitution at the nitrogen atom
2 with alkyl, dialkyl, benzyl, or methoxybenzyl groups or by inclusion
3 of the nitrogen atom in a cyclic structure. For the purpose of this
4 paragraph, the term "isomer" includes the optical, positional, or
5 geometric isomer.

6 ...

- 7 (6) NBOMe compounds. – Any material compound, mixture, or preparation
8 which contains any quantity of the following substances, including its salts,
9 ~~isomers, isomers~~ (whether optical, positional, or geometric), and salts of
10 isomers whenever the existence of such salts, isomers, and salts of isomers is
11 possible within the specific chemical designation unless specifically excepted
12 or unless listed in another schedule:

13 ...

- 14 (8) Substituted phenethylamines. – This includes any compound, unless
15 specifically excepted, specifically named or included in another subset in this
16 schedule, or listed under a different schedule, structurally derived from
17 phenylethan-2-amine by substitution on the phenyl ring in any of the
18 following ways, that is to say, by substitution with a fused methylenedioxy
19 ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two
20 alkoxy groups; by substitution with one alkoxy and either one fused furan,
21 tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two
22 fused ring systems from any combination of the furan, tetrahydrofuran, or
23 tetrahydropyran ring systems. Whether or not the compound is further
24 modified in any of the following ways, that is to say: (i) by substitution of
25 phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alylthio
26 groups, (ii) by substitution at the 2-position by any alkyl groups, or (iii) by
27 substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl,
28 hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.
29 Substances in this class include, but are not limited to: 2C-I
30 (4-Iodo-2,5-dimethoxyphenethylamine), APDB
31 ((2-aminopropyl)-2,3-dihydrobenzofuran), MBDB
32 (3,4-methylenedioxy-N-methylbutanamine), and 2C-I-NBOH
33 (N-(2-hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine).

- 34 (9) N-Benzyl phenethylamines. – Unless specifically excepted or listed in another
35 schedule, or contained within a pharmaceutical product approved by the
36 United States Food and Drug Administration, any material, compound,
37 mixture, or preparation, including its salts, isomers (whether optical,
38 geometric, or positional), esters, or ethers, and salts of isomers, esters, or
39 ethers, whenever the existence of such salts is possible within any of the
40 following specific chemical designations, any compound containing a
41 phenethylamine structure without a beta-keto group, with substitution on the
42 nitrogen atom of the amino group with a benzyl substituent, with or without
43 substitution on the phenyl or benzyl ring to any extent with alkyl, alkoxy, thio,
44 alkylthio, halide, fused alkylenedioxy, fused furan, fused benzofuran, or fused
45 tetrahydropyran substituents, whether or not further substituted on a ring to
46 any extent, with or without substitution at the alpha position by any alkyl
47 substituent. Substances in this class include, but are not limited to:
48 25B-NBOH
49 (4-bromo-2,5-dimethoxy-[N-(2-hydroxybenzyl)]phenethylamine), 25I-NBF
50 (4-iodo-2,5-dimethoxy-[N-(2-fluorobenzyl)]phenethylamine), and

25C-NBMD(4-chloro-2,5-dimethoxy-[N-(2,3-methylenedioxybenzyl)]phenethylamine)."**SECTION 3.** G.S. 90-90(1) reads as rewritten:

"(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, unless specifically excepted or unless listed in another schedule:

...

d. Cocaine and any salt, ~~isomer,~~ isomer (whether optical or geometric), salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocanized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

...."

SECTION 4. G.S. 90-90(2) reads as rewritten:

"(2) Any of the following opiates or opioids, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation unless specifically exempted or listed in other schedules:

...

h2. Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide).

...."

SECTION 5. G.S. 90-91(j) reads as rewritten:

"(j) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, ~~isomers,~~ isomers (whether optical, positional, or geometric), and salts of said isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically excluded or listed in some other schedule.

1. Benzphetamine.
2. Chlorphentermine.
3. Clortermine.
4. Repealed by Session Laws 1987, c. 412, s. 10.
5. Phendimetrazine."

SECTION 6. G.S. 90-92(a) reads as rewritten:**"§ 90-92. Schedule IV controlled substances.**

(a) This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a low potential for abuse relative to the substances listed in Schedule III of this Article; currently accepted medical use in the United States; and limited physical or psychological dependence relative to the substances listed in Schedule III of this Article. The following controlled substances are included in this schedule:

- (1) Depressants. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

...

- 1 m1. Desalkylflurazepam.
- 2 ...
- 3 n2. Diclazepam.
- 4 ...
- 5 zz. Designer benzodiazepines. – Unless specifically excepted or listed in
- 6 another schedule, or contained within a pharmaceutical product
- 7 approved by the United States Food and Drug Administration, any
- 8 material, compound, derivative, mixture, or preparation, including its
- 9 salts, isomers, salts of isomers, halogen analogues, or homologues,
- 10 whenever the existence of such salts, isomers, or salts of isomers,
- 11 halogen analogues, or homologues is possible within the specific
- 12 chemical designation, structurally derived from 1,4 benzodiazepine by
- 13 substitution at the 5 position with a phenyl ring system (which may be
- 14 further substituted), whether or not the compound is further modified
- 15 in any of the following ways:
- 16 1. By substitution at the 2 position with a ketone;
- 17 2. By substitution at the 3 position with a hydroxyl group or ester
- 18 group, which itself may be further substituted;
- 19 3. By a fused triazole ring at the 1,2 position, which itself may be
- 20 further substituted;
- 21 4. By a fused imidazole ring at the 1,2 position, which itself may
- 22 be further substituted;
- 23 5. By a fused oxazolidine ring at the 4,5 position, which itself
- 24 may be further substituted;
- 25 6. By a fused oxazine ring at the 4,5 position, which itself may be
- 26 further substituted;
- 27 7. By substitution at the 7 position with a nitro group;
- 28 8. By substitution at the 7 position with a halogen group; or
- 29 9. By substitution at the 1 position with an alkyl group, which
- 30 itself may be further substituted.
- 31 (2) Any material, compound, mixture, or preparation which contains any of the
- 32 following substances, including its salts, or isomers and salts of such isomers,
- 33 whenever the existence of such salts, isomers, and salts of isomers is possible:
- 34 a. Fenfluramine. For this compound, the term "isomer" includes the
- 35 optical, positional, or geometric isomer.
- 36 b. Pentazocine.
- 37 "

SECTION 7. G.S. 90-95(d)(2) reads as rewritten:

"(2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a Class 1 misdemeanor. If the controlled substance exceeds four tablets, capsules, or other dosage units or equivalent quantity of hydromorphone or if the quantity of the controlled substance, or combination of the controlled substances, exceeds one hundred tablets, capsules or other dosage units, or equivalent quantity, the violation shall be punishable as a Class I felony. If the controlled substance is methamphetamine, amphetamine, phencyclidine, ~~or cocaine~~ cocaine, fentanyl, or carfentanil and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocanized coca leaves or any extraction of coca leaves

1 which does not contain cocaine or ecgonine), the violation shall be punishable
2 as a Class I felony."

3 **SECTION 8.** G.S. 90-95(h)(3) reads as rewritten:

4 "(3) Any person who sells, manufactures, delivers, transports, or possesses 28
5 grams or more of cocaine and any salt, ~~isomer~~, isomer (whether optical or
6 geometric), salts of isomers, compound, derivative, or preparation thereof, or
7 any coca leaves and any salt, isomer, salts of isomers, compound, derivative,
8 or preparation of coca leaves, and any salt, isomer, salts of isomers,
9 compound, derivative or preparation thereof which is chemically equivalent
10 or identical with any of these substances (except decocainized coca leaves or
11 any extraction of coca leaves which does not contain cocaine) or any mixture
12 containing such substances, shall be guilty of a felony, which felony shall be
13 known as "trafficking in cocaine" and if the quantity of such substance or
14 mixture involved:

- 15 a. Is 28 grams or more, but less than 200 grams, such person shall be
16 punished as a Class G felon and shall be sentenced to a minimum term
17 of 35 months and a maximum term of 51 months in the State's prison
18 and shall be fined not less than fifty thousand dollars (\$50,000);
- 19 b. Is 200 grams or more, but less than 400 grams, such person shall be
20 punished as a Class F felon and shall be sentenced to a minimum term
21 of 70 months and a maximum term of 93 months in the State's prison
22 and shall be fined not less than one hundred thousand dollars
23 (\$100,000);
- 24 c. Is 400 grams or more, such person shall be punished as a Class D felon
25 and shall be sentenced to a minimum term of 175 months and a
26 maximum term of 222 months in the State's prison and shall be fined
27 at least two hundred fifty thousand dollars (\$250,000)."

28 **SECTION 9.** This act becomes effective December 1, 2021, and applies to offenses
29 committed on or after that date.