

CS/HB 1359 – Offenses Involving Fentanyl or Fentanyl Analogs (Identical CS/SB 1226)

This bill amends s. 893.13, F.S., adding an **unranked, 1st degree felony (Level 7 by default)** and a mandatory minimum term of imprisonment of 3 years for a person who “sells, manufactures, or delivers, or possesses with intent to sell, manufacture, or deliver” fentanyl or fentanyl analogs in “a product, when such product or its packaging further has at least one of the following attributes...a bright color or coloring scheme...resembles the trade dress of a branded food product, consumer food product, or logo food product...incorporates an actual or fake registered copyright, service mark, or trademark...resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product...or...contains a cartoon character imprint.”

This bill also amends s. 893.135, F.S., stating that a person “shall be sentenced to a mandatory minimum term of life imprisonment” if that person commits “trafficking in dangerous fentanyl or fentanyl analogues” and this act involves “a product, when such product or its packaging further has at least one of the following attributes...a bright color or coloring scheme...resembles the trade dress of a branded food product, consumer food product, or logo food product...incorporates an actual or fake registered copyright, service mark, or trademark.....resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product...or...contains a cartoon character imprint.”

Per DOC, in FY 18-19, there were 766 new commitments to prison for sale/manufacture/delivery drug violations, of which fentanyl offenses represent an unknown share of that total. In FY 19-20, there were 443 new commitments, and there were 426 new commitments in FY 20-21. There were 520 new commitments in FY 21-22. There were 19 new commitments to prison for fentanyl trafficking violations in FY 18-19, and there were 35 new commitments in FY 19-20. There were 63 new commitments in FY 20-21, and there were 169 new commitments in FY 21-22. It is not known how many of these offenders would fit the newly added language in this bill.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: Senate