HOUSE BILL 752
Committee Substitute Favorable 5/4/21
Third Edition Engrossed 5/5/21

Short Title: Amend Controlled Substances Act. (Public)

Sponsors:

Referred to:

May 3, 2021

A BILL TO BE ENTITLED

AN ACT REVISING THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

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

"**§ 90-87. Definitions.**

As used in this Article:

…

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

…

(17) "Narcotic drug" means any of the following, 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:

a. Opium, opiate and opioid, and any salt, compound, derivative, or preparation of opium, opiate, or opioid.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause a, but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

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 2. G.S. 90-89 reads as rewritten:

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

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 high potential for abuse, no currently accepted medical use in the United States, or a lack of accepted safety for use in treatment under medical supervision. The following controlled substances are included in this schedule:

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

…

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

…

mmm. 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropylbenzamide (also known as Isopropyl-U-47700).

nnn. 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (also known as U-51754).

ooo. 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (also known as U-48800).

ppp. Isotonitazene.

qqq. Metonitazene.

rrr. Brorphine.

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

…

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

…

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

…

nn. Substituted tryptamines. – Any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Substances in this class include, but are not limited to: 4-AcO-DiPT (4-acetoxy-N,N-diisopropyltryptamine), 4-HO-MPMI ((R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydoxyindole), and DALT (N,N-diallyltryptamine).

oo. Substituted phenylcyclohexylamines. – Any compound, unless specifically excepted or unless listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation containing a phenylcyclohexylamine structure, with or without any substitution on the phenyl ring, any substitution on the cyclohexyl ring, any replacement of the phenyl ring with a thiophenyl or benzothiophenyl ring, with or without substitution on the amine with alkyl, dialkyl, or alkoxy substituents, inclusion of the nitrogen in a cyclic structure, or any combination of the above. Substances in this class include, but are not limited to: BCP (benocyclidine), PCMPA ((phenylcyclohexyl(methoxypropylamine)), and Hydroxy-PCP ((hydroxyphenyl)cyclohexylpiperidine).

(4) Systemic depressants. – Any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, 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, unless specifically excepted or unless listed in another schedule:

…

g. Clonazolam.

h. Flualprazolam.

i. Flubromazolam.

(5) Stimulants. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

…

h. 4-methylmethcathinone (also known as mephedrone). For this compound, the term "isomer" includes the optical, positional, or geometric isomer.

i. 3,4-Methylenedioxypyrovalerone (also known as MDPV). For this compound, the term "isomer" includes the optical, positional, or geometric isomer.

j. Substituted cathinones. A compound, other than bupropion, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways: (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl,

or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents; (ii) by substitution at the 3-position to any extent; or (iii) by substitution at the nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups or by inclusion of the nitrogen atom in a cyclic structure. For the purpose of this paragraph, the term "isomer" includes the optical, positional, or geometric isomer.

…

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

…

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

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

(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 pyschological 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:

…

m1. Desalkylflurazepam.

…

n2. Diclazepam.

…

zz. Designer benzodiazepines. – Unless specifically excepted or listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, derivative, mixture, or preparation, including its salts, isomers, salts of isomers, halogen analogues, or homologues, whenever the existence of such salts, isomers, or salts of isomers, halogen analogues, or homologues is possible within the specific chemical designation, structurally derived from 1,4 benzodiazepine by substitution at the 5 position with a phenyl ring system (which may be further substituted), whether or not the compound is further modified in any of the following ways:

1. By substitution at the 2 position with a ketone;
2. By substitution at the 3 position with a hydroxyl group or ester group, which itself may be further substituted;
3. By a fused triazole ring at the 1,2 position, which itself may be further substituted;
4. By a fused imidazole ring at the 1,2 position, which itself may be further substituted;
5. By a fused oxazolidine ring at the 4,5 position, which itself may be further substituted;
6. By a fused oxazine ring at the 4,5 position, which itself may be further substituted;
7. By substitution at the 7 position with a nitro group;
8. By substitution at the 7 position with a halogen group; or
9. By substitution at the 1 position with an alkyl group, which itself may be further substituted.

(2) Any material, compound, mixture, or preparation which contains any of the following substances, including its salts, or isomers and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

a. Fenfluramine. For this compound, the term "isomer" includes the optical, positional, or geometric isomer.

b. Pentazocine.

…."

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

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

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

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 222 months in the State's prison and shall be fined at least two hundred fifty thousand dollars ($250,000)."

SECTION 9. G.S. 90-93(a)(4) reads as rewritten:

"(4) Anticonvulsants. – Unless specifically exempted or excluded or unless listed in another schedule, 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, and salts of isomers:

a. Ezogabine.

b. Lacosamide.

c. Brivaracetam.

d. Pregabalin.

e. Cenobamate.

f. Lasmiditan."

SECTION 10. Except as otherwise provided, this act becomes effective December 1, 2021, and applies to offenses committed on or after that date.