

## Fentanyl is now a felony in North Carolina

BY BRITTNEY LOFTHOUSE ON SEPTEMBER 17, 2021

North Carolina Governor Roy Cooper signed Senate Bill 321 into law Thursday afternoon, which has several changes to the state's Controlled Substances Act, most notably now classifying and possession amount of Fentanyl as a felony. North Carolina Senator Kevin Corbin served as a co-sponsor of the legislation and said this is a needed step for the state.

“These amendments are a step in the right direction by giving law enforcement officers in our state an added tool when addressing the drug epidemic,” said Sen. Corbin. “The dangers of Fentanyl are becoming more and more apparent and I think that is evident on the state's effort with Senate Bill 321.”

A preliminary report released by the North Carolina Department of Health and Human Services in January found there was a 23 percent increase in visits to emergency rooms in 2020 due to opioid overdoses. That was after a decline of 1 percent in 2019 and 9 percent in 2018.

In December, the CDC issued a report describing overdose deaths as “accelerating” during the COVID-19 pandemic.

Senate Bill 321 includes several modifications to the Controlled Substances Act, including the following changes:

Defines “isomer” to mean the optical isomer unless otherwise specified.

Amends the definition of “narcotic drug” to specify the term includes cocaine and any isomer with optical or geometric.

Adds new substances to those classified as Schedule I,II,III, and IV controlled substances.

Most notably, the bill makes possession of fentanyl or carfentanil or any salt, isomer, compound, or derivative thereof, or the chemical equivalent, a Class I felony.

“The drug epidemic in North Carolina is only getting worse,” said Senator Kevin Corbin. “As leaders, it is our job to equip law enforcement with the tools necessary to keep our communities safe. Fentanyl is extremely dangerous and the current law makes it nearly impossible for law enforcement officers and DAs across the state to prosecute the drug as a felony. We hope to change that with Senate Bill 321.”

The National Institute on Drug Abuse describes fentanyl as “a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent.”

Prior to the passage of Senate Bill 321, under North Carolina law, possession of 4 grams or more of fentanyl triggers trafficking liability under G.S. 90-95(h)(4), just like other opiate and opioid substances, such as heroin, making it a felony. However, a pin needle size amount of fentanyl can be deadly. Fentanyl and carfentanil are exponentially stronger substances, and users presumably require a much, much smaller dose—3 mg. of fentanyl, or a few grains of the substance, is a lethal dose for most people. Felony possession could be charged if more than 100 doses were found — however, given the strength of the substance and the sometimes microscopic dosage size, even 100 doses would be far deadlier than any other controlled substance classified in the same manner.

Senate Bill 321 now amends the substance control act to reclassify Fentanyl from a misdemeanor Schedule II to a classified Schedule I which under the last states that any possession amount would be deemed a felony.