

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 67

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO
2 CODE, TO REVISE PENALTIES FOR TRAFFICKING IN HEROIN, TO PROVIDE PENAL-
3 TIES FOR TRAFFICKING IN FENTANYL, AND TO MAKE TECHNICAL CORRECTIONS;
4 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 37-2732B, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as au-
10 thorized in this chapter, and notwithstanding the provisions of section
11 37-2732, Idaho Code:

12 (1) Any person who knowingly manufactures, delivers, or brings into
13 this state, or who is knowingly in actual or constructive possession
14 of, one (1) pound of marijuana or more, or twenty-five (25) marijuana
15 plants or more, as defined in section 37-2701, Idaho Code, is guilty of
16 a felony, which felony shall be known as "trafficking in marijuana." If
17 the quantity of marijuana involved:

18 (A) Is one (1) pound or more, but less than five (5) pounds, or con-
19 sists of twenty-five (25) marijuana plants or more but fewer than
20 fifty (50) marijuana plants, regardless of the size or weight of
21 the plants, such person shall be sentenced to a mandatory minimum
22 fixed term of imprisonment of one (1) year and fined not less than
23 five thousand dollars (\$5,000);

24 (B) Is five (5) pounds or more, but less than twenty-five (25)
25 pounds, or consists of fifty (50) marijuana plants or more but
26 fewer than one hundred (100) marijuana plants, regardless of the
27 size or weight of the plants, such person shall be sentenced to a
28 mandatory minimum fixed term of imprisonment of three (3) years
29 and fined not less than ten thousand dollars (\$10,000);

30 (C) Is twenty-five (25) pounds or more, or consists of one hundred
31 (100) marijuana plants or more, regardless of the size or weight
32 of the plants, such person shall be sentenced to a mandatory mini-
33 mum fixed term of imprisonment of five (5) years and fined not less
34 than fifteen thousand dollars (\$15,000).

35 (D) The maximum number of years of imprisonment for trafficking in
36 marijuana shall be fifteen (15) years, and the maximum fine shall
37 be fifty thousand dollars (\$50,000).

38 (E) For the purposes of this section, the weight of the marijuana
39 is its weight when seized or as determined as soon as practica-
40 ble after seizure, unless the provisions of subsection (c) of this
41 section apply.

1 (2) Any person who knowingly manufactures, delivers, or brings into
2 this state, or who is knowingly in actual or constructive possession
3 of, twenty-eight (28) grams or more of cocaine or of any mixture or sub-
4 stance containing a detectable amount of cocaine is guilty of a felony,
5 which felony shall be known as "trafficking in cocaine." If the quantity
6 involved:

7 (A) Is twenty-eight (28) grams or more, but less than two hundred
8 (200) grams, such person shall be sentenced to a mandatory minimum
9 fixed term of imprisonment of three (3) years and fined not less
10 than ten thousand dollars (\$10,000);

11 (B) Is two hundred (200) grams or more, but less than four hundred
12 (400) grams, such person shall be sentenced to a mandatory mini-
13 mum fixed term of imprisonment of five (5) years and fined not less
14 than fifteen thousand dollars (\$15,000);

15 (C) Is four hundred (400) grams or more, such person shall be sen-
16 tenced to a mandatory minimum fixed term of imprisonment of ten
17 (10) years and fined not less than twenty-five thousand dollars
18 (\$25,000).

19 (D) The maximum number of years of imprisonment for trafficking
20 in cocaine shall be life, and the maximum fine shall be one hundred
21 thousand dollars (\$100,000).

22 (3) Any person who knowingly manufactures or attempts to manufacture
23 methamphetamine and/or amphetamine is guilty of a felony, which felony
24 shall be known as "trafficking in methamphetamine and/or amphetamine by
25 manufacturing." Any person convicted of trafficking in methamphetamine
26 and/or amphetamine by attempted manufacturing shall be sentenced to a
27 mandatory minimum fixed term of imprisonment of two (2) years and not
28 to exceed fifteen (15) years of imprisonment and fined not less than
29 ten thousand dollars (\$10,000). Any person convicted of traffick-
30 ing in methamphetamine and/or amphetamine by manufacturing shall be
31 sentenced to a mandatory minimum fixed term of imprisonment of five
32 (5) years and not to exceed life imprisonment and fined not less than
33 twenty-five thousand dollars (\$25,000). The maximum number of years of
34 imprisonment for trafficking in methamphetamine and/or amphetamine by
35 manufacturing shall be life, and the maximum fine shall be one hundred
36 thousand dollars (\$100,000).

37 (4) Any person who knowingly delivers, or brings into this state, or
38 who is knowingly in actual or constructive possession of, twenty-eight
39 (28) grams or more of methamphetamine or amphetamine or of any mixture
40 or substance containing a detectable amount of methamphetamine or am-
41 phetamine is guilty of a felony, which felony shall be known as "traf-
42 ficking in methamphetamine or amphetamine." If the quantity involved:

43 (A) Is twenty-eight (28) grams or more, but less than two hundred
44 (200) grams, such person shall be sentenced to a mandatory minimum
45 fixed term of imprisonment of three (3) years and fined not less
46 than ten thousand dollars (\$10,000);

47 (B) Is two hundred (200) grams or more, but less than four hundred
48 (400) grams, such person shall be sentenced to a mandatory mini-
49 mum fixed term of imprisonment of five (5) years and fined not less
50 than fifteen thousand dollars (\$15,000);

1 (C) Is four hundred (400) grams or more, such person shall be sen-
 2 tenced to a mandatory minimum fixed term of imprisonment of ten
 3 (10) years and fined not less than twenty-five thousand dollars
 4 (\$25,000).

5 (D) The maximum number of years of imprisonment for trafficking in
 6 methamphetamine or amphetamine shall be life, and the maximum fine
 7 shall be one hundred thousand dollars (\$100,000).

8 (5) Any person who knowingly manufactures, delivers, brings into
 9 this state, or who is knowingly in actual or constructive possession
 10 of the below-specified quantities of any of the following immedi-
 11 ate precursors to methamphetamine or amphetamine (namely, ephedrine,
 12 methylamine, methyl formamide, phenylacetic acid, phenylacetone, or
 13 pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or
 14 any compound, mixture, or preparation ~~which~~ that contains a detectable
 15 quantity of these substances, is guilty of a felony, which felony shall
 16 be known as "trafficking in immediate precursors of methamphetamine or
 17 amphetamine." If the quantity:

18 (A) Of ephedrine is five hundred (500) grams or more;

19 (B) Of methylamine is one-half (1/2) pint or more;

20 (C) Of methyl formamide is one-quarter (1/4) pint or more;

21 (D) Of phenylacetic acid is five hundred (500) grams or more;

22 (E) Of phenylacetone is four hundred (400) grams or more;

23 (F) Of pseudoephedrine is five hundred (500) grams or more;

24 such person shall be sentenced to a mandatory minimum fixed term of
 25 imprisonment of ten (10) years and fined not less than twenty-five
 26 thousand dollars (\$25,000). The maximum number of years of impris-
 27 onment for trafficking in immediate precursors of methamphetamine or
 28 amphetamine in the quantities specified in subparagraphs (A) through
 29 (F) of this subsection ~~(5) paragraph~~ shall be life, and the maximum fine
 30 shall be one hundred thousand dollars (\$100,000). If the quantity of
 31 pseudoephedrine is twenty-five (25) grams or more, but less than five
 32 hundred (500) grams, such person shall be sentenced to a term of im-
 33 prisonment of up to ten (10) years and fined not more than twenty-five
 34 thousand dollars (\$25,000).

35 (6) Any person who knowingly manufactures, delivers, or brings into
 36 this state, or who is knowingly in actual or constructive possession
 37 of, ~~two (2)~~ seven (7) grams or more of heroin or any salt, isomer, or
 38 salt of an isomer thereof, or ~~two (2)~~ seven (7) grams or more of any mix-
 39 ture or substance containing a detectable amount of any such substance
 40 is guilty of a felony, which felony shall be known as "trafficking in
 41 heroin." If the quantity involved:

42 (A) Is ~~two (2)~~ seven (7) grams or more, but less than ~~seven (7)~~
 43 fourteen (14) grams, such person shall be sentenced to a mandatory
 44 minimum fixed term of imprisonment of three (3) years and fined not
 45 less than ten thousand dollars (\$10,000);

46 (B) Is ~~seven (7)~~ fourteen (14) grams or more, but less than twenty-
 47 eight (28) grams, such person shall be sentenced to a mandatory
 48 minimum fixed term of imprisonment of ~~ten (10)~~ five (5) years and
 49 fined not less than fifteen thousand dollars (\$15,000);

1 (C) Is twenty-eight (28) grams or more, such person shall be
2 sentenced to a mandatory minimum fixed term of imprisonment of
3 ~~fifteen (15)~~ ten (10) years and fined not less than twenty-five
4 thousand dollars (\$25,000).

5 (D) The maximum number of years of imprisonment for trafficking
6 in heroin shall be life, and the maximum fine shall be one hundred
7 thousand dollars (\$100,000).

8 (7) Any person who knowingly manufactures, delivers, or brings into
9 this state, or who is knowingly in actual or constructive posses-
10 sion of, seven (7) grams or more of: alfentanil, as described in
11 section 37-2707(c)(1), Idaho Code; carfentanil, as described in
12 section 37-2707(c)(6), Idaho Code; fentanyl, as described in sec-
13 tion 37-2707(c)(9), Idaho Code; sufentanil, as described in section
14 37-2707(c)(29), Idaho Code; fentanyl-related substances, as described
15 in section 37-2705(b)(38), Idaho Code; or any mixture or substance con-
16 taining a detectable amount of any such substance is guilty of a felony,
17 which felony shall be known as "trafficking in fentanyl." If the quan-
18 tity involved:

19 (A) Is seven (7) grams or more but less than fourteen (14) grams,
20 or if such substances are in pill form, consist of one hundred
21 (100) pills or more but fewer than two hundred fifty (250) pills,
22 such person shall be sentenced to a mandatory minimum fixed term
23 of imprisonment of three (3) years and fined ten thousand dollars
24 (\$10,000);

25 (B) Is fourteen (14) grams or more but less than twenty-eight (28)
26 grams, or if such substances are in pill form, consist of two hun-
27 dred fifty (250) pills or more but fewer than five hundred (500)
28 pills, such person shall be sentenced to a mandatory minimum fixed
29 term of imprisonment of five (5) years and fined fifteen thousand
30 dollars (\$15,000);

31 (C) Is twenty-eight (28) grams or more, or if such substances are
32 in pill form, consist of five hundred (500) pills or more, such
33 person shall be sentenced to a mandatory minimum fixed term of im-
34 prisonment of ten (10) years and fined twenty-five thousand dol-
35 lars (\$25,000).

36 (8) A second conviction for any trafficking offense as defined in
37 subsection (a) of this section shall result in a mandatory minimum fixed
38 term that is twice that otherwise required under this section.

39 (~~8~~9) Notwithstanding any other provision of law, with respect to any
40 person who is found to have violated the provisions of this section, ad-
41 judication of guilt or the imposition or execution of sentence shall not
42 be suspended, deferred, or withheld, nor shall such person be eligible
43 for parole prior to serving the mandatory minimum fixed term of impris-
44 onment prescribed in this section. Further, the court shall not retain
45 jurisdiction.

46 (b) Any person who agrees, conspires, combines, or confederates with
47 another person or solicits another person to commit any act prohibited in
48 subsection (a) of this section is guilty of a felony and is punishable as if
49 he had actually committed such prohibited act.

1 (c) For the purposes of subsections (a) and (b) of this section, the
2 weight of the controlled substance as represented by the person selling or
3 delivering it is determinative if the weight as represented is greater than
4 the actual weight of the controlled substance.

5 SECTION 2. An emergency existing therefor, which emergency is hereby
6 declared to exist, this act shall be in full force and effect on and after
7 July 1, 2023.