

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 233

BY BOYLE

AN ACT

1 RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE,  
2 TO PROVIDE THAT TRAFFICKING IN FENTANYL IS A FELONY, TO PROVIDE PENAL-  
3 TIES FOR TRAFFICKING IN FENTANYL, TO REVISE PROVISIONS REGARDING MANDA-  
4 TORY SENTENCES FOR TRAFFICKING OFFENSES, AND TO MAKE TECHNICAL CORREC-  
5 TIONS; AND DECLARING AN EMERGENCY.  
6

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

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

10 37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as au-  
11 thorized in this chapter, and notwithstanding the provisions of section  
12 37-2732, Idaho Code:

13 (1) Any person who knowingly manufactures, delivers, or brings into  
14 this state, or who is knowingly in actual or constructive possession  
15 of, one (1) pound of marijuana or more, or twenty-five (25) marijuana  
16 plants or more, as defined in section 37-2701, Idaho Code, is guilty of  
17 a felony, which felony shall be known as "trafficking in marijuana."  
18 ~~If~~ The maximum number of years of imprisonment for trafficking in mar-  
19 ijuana shall be fifteen (15) years, and the maximum fine shall be fifty  
20 thousand dollars (\$50,000). If the person has a prior conviction under  
21 this section, and the quantity of marijuana involved:

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

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

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

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

1           ~~(E)~~ (D) For the purposes of this section, the weight of the mari-  
2           juana is its weight when seized or as determined as soon as prac-  
3           ticable after seizure, unless the provisions of subsection (c) of  
4           this section apply.

5           (2) Any person who knowingly manufactures, delivers, or brings into  
6           this state, or who is knowingly in actual or constructive possession  
7           of, twenty-eight (28) grams or more of cocaine or of any mixture or sub-  
8           stance containing a detectable amount of cocaine is guilty of a felony,  
9           which felony shall be known as "trafficking in cocaine." ~~If the quantity~~  
10          ~~involved:~~ The maximum number of years of imprisonment for traffick-  
11          ing in cocaine shall be life, and the maximum fine shall be one hundred  
12          thousand dollars (\$100,000). If the person has a prior conviction under  
13          this section, and the quantity of cocaine involved:

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

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

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

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

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

44           (4) Any person who knowingly delivers, or brings into this state, or  
45           who is knowingly in actual or constructive possession of, twenty-eight  
46           (28) grams or more of methamphetamine or amphetamine or of any mixture  
47           or substance containing a detectable amount of methamphetamine or am-  
48           phetamine is guilty of a felony, which felony shall be known as "traf-  
49           ficking in methamphetamine or amphetamine." ~~If the quantity involved:~~  
50          The maximum number of years of imprisonment for trafficking in metham-

1 phetamine or amphetamine shall be life, and the maximum fine shall be  
 2 one hundred thousand dollars (\$100,000). If the person has a prior con-  
 3 viction under this section, and the quantity of methamphetamine or am-  
 4 phetamine involved:

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

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

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

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

20 (5) Any person who knowingly manufactures, delivers, brings into  
 21 this state, or who is knowingly in actual or constructive possession  
 22 of the ~~below~~-specified quantities of any of the following immedi-  
 23 ate precursors to methamphetamine or amphetamine (namely, ephedrine,  
 24 methylamine, methyl formamide, phenylacetic acid, phenylacetone, or  
 25 pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or  
 26 any compound, mixture or preparation ~~which~~ that contains a detectable  
 27 quantity of these substances, is guilty of a felony, which felony shall  
 28 be known as "trafficking in immediate precursors of methamphetamine  
 29 or amphetamine." The maximum number of years of imprisonment for traf-  
 30 ficking in immediate precursors of methamphetamine or amphetamine in  
 31 the quantities specified in subparagraphs (A) through (F) of this para-  
 32 graph shall be life, and the maximum fine shall be one hundred thousand  
 33 dollars (\$100,000). If the person has a prior conviction under this  
 34 section, and the quantity:

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

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

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

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

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

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

41 such person shall be sentenced to a mandatory minimum fixed term of  
 42 imprisonment of ten (10) years and fined not less than twenty-five thou-  
 43 sand dollars (\$25,000). ~~The maximum number of years of imprisonment~~  
 44 ~~for trafficking in immediate precursors of methamphetamine or am-~~  
 45 ~~phetamine in the quantities specified in paragraphs (A) through (F) of~~  
 46 ~~this subsection (5) shall be life, and the maximum fine shall be one hun-~~  
 47 ~~dred thousand dollars (\$100,000).~~ If the quantity of pseudoephedrine  
 48 is twenty-five (25) grams or more, but less than five hundred (500)  
 49 grams, such person shall be sentenced to a term of imprisonment of up

1 to ten (10) years and fined not more than twenty-five thousand dollars  
2 (\$25,000).

3 (6) Any person who knowingly manufactures, delivers or brings into this  
4 state, or who is knowingly in actual or constructive possession of, ~~two~~  
5 ~~(2) twenty-eight (28) grams or more of heroin or any salt, isomer, or~~  
6 ~~salt of an isomer thereof of heroin, or two (2) twenty-eight (28) grams~~  
7 ~~or more of any mixture or substance containing a detectable amount of~~  
8 ~~any such substance is guilty of a felony, which felony shall be known as~~  
9 ~~"trafficking in heroin." If the quantity involved: The maximum number~~  
10 ~~of years of imprisonment for trafficking in heroin shall be life, and~~  
11 ~~the maximum fine shall be one hundred thousand dollars (\$100,000). If~~  
12 ~~the person has a prior conviction under this section, and the quantity~~  
13 ~~of heroin or any salt, isomer, or salt of an isomer of heroin involved:~~

14 (A) Is ~~two (2) twenty-eight (28) grams or more,~~ but less than ~~seven~~  
15 ~~(7) two hundred (200) grams,~~ such person shall be sentenced to a  
16 mandatory minimum fixed term of imprisonment of three (3) years  
17 and fined not less than ten thousand dollars (\$10,000);

18 (B) Is ~~seven (7) two hundred (200) grams or more,~~ but less than  
19 ~~twenty-eight (28) four hundred (400) grams,~~ such person shall be  
20 sentenced to a mandatory minimum fixed term of imprisonment of ~~ten~~  
21 ~~(10) five (5) years~~ and fined not less than fifteen thousand dol-  
22 lars (\$15,000);

23 (C) Is ~~twenty-eight (28) four hundred (400) grams or more,~~ such  
24 person shall be sentenced to a mandatory minimum fixed term of im-  
25 prisonment of ~~fifteen (15) ten (10) years~~ and fined not less than  
26 twenty-five thousand dollars (\$25,000).

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

30 (7) Any person who knowingly manufactures, delivers, or brings  
31 into this state, or who is knowingly in actual or constructive pos-  
32 session of, seven (7) grams or more of alfentanil, as described in  
33 section 37-2707(c)(1), Idaho Code; carfentanil, as described in  
34 section 37-2707(c)(6), Idaho Code; fentanyl, as described in sec-  
35 tion 37-2707(c)(9), Idaho Code; sufentanil, as described in section  
36 37-2707(c)(29), Idaho Code; fentanyl-related substances, as described  
37 in section 37-2705(b)(38), Idaho Code; or any mixture or substance con-  
38 taining a detectable amount of any such substance is guilty of a felony,  
39 which felony shall be known as "trafficking in fentanyl." If the quan-  
40 tity involved:

41 (A) Is seven (7) grams or more but less than fourteen (14) grams,  
42 or, if such substances are in pill form, consists of one hundred  
43 (100) pills or more but fewer than two hundred fifty (250) pills,  
44 such person shall be sentenced to a mandatory minimum fixed term  
45 of imprisonment of three (3) years and fined ten thousand dollars  
46 (\$10,000);

47 (B) Is fourteen (14) grams or more but less than twenty-eight (28)  
48 grams, or, if such substances are in pill form, consists of two  
49 hundred fifty (250) pills or more but fewer than five hundred (500)  
50 pills, such person shall be sentenced to a mandatory minimum fixed

1 term of imprisonment of five (5) years and fined fifteen thousand  
2 dollars (\$15,000);

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

8 ~~(7)~~ (8) A ~~second~~ third conviction for any trafficking offense as de-  
9 fined in this subsection (a) of this section shall result in a mandatory  
10 minimum fixed term that is twice that otherwise required under this sec-  
11 tion.

12 ~~(8)~~ (9) Notwithstanding any other provision of law, with respect to any  
13 person with a prior conviction under this section who is found to have  
14 violated the provisions of this section again, adjudication of guilt  
15 or the imposition or execution of sentence shall not be suspended, de-  
16 ferred, or withheld, nor shall such person be eligible for parole prior  
17 to serving the mandatory minimum fixed term of imprisonment prescribed  
18 in this section. Further, the court shall not retain jurisdiction.

19 (b) Any person who agrees, conspires, combines or confederates with an-  
20 other person or solicits another person to commit any act prohibited in sub-  
21 section (a) of this section is guilty of a felony and is punishable as if he  
22 had actually committed such prohibited act.

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

27 SECTION 2. An emergency existing therefor, which emergency is hereby  
28 declared to exist, this act shall be in full force and effect on and after its  
29 passage and approval.