

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 234

BY BOYLE

AN ACT

1 RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING TRAFFICKING, TO PROVIDE THAT TRAFFICK-
3 ING IN FENTANYL IS A FELONY, TO PROVIDE PENALTIES FOR TRAFFICKING IN
4 FENTANYL, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMER-
5 GENCY.
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, with the intent to distribute to others, knowingly
14 manufactures, delivers, or brings into this state, or who is knowingly
15 in actual or constructive possession of, one (1) pound five (5) pounds
16 of marijuana or more, or twenty-five (25) fifty (50) marijuana plants or
17 more, as defined in section 37-2701, Idaho Code, is guilty of a felony,
18 which felony shall be known as "trafficking in marijuana." ~~If~~ The maxi-
19 imum number of years of imprisonment for trafficking in marijuana shall
20 be fifteen (15) years, and the maximum fine shall be fifty thousand dol-
21 lars (\$50,000). If the person has a prior conviction under this sec-
22 tion, and the quantity of marijuana involved:

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

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

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

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

1 ~~(E)~~ (C) 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 ~~(e)~~ (d)
4 of this section apply.

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

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

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

23 (C) Is four hundred (400) grams or more, such person shall be sen-
24 tenced to a mandatory minimum fixed term of imprisonment of ten
25 (10) years and fined not less than twenty-five thousand dollars
26 (\$25,000).

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

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

45 (4) Any person who, with the intent to distribute to others, knowingly
46 delivers, or brings into this state, or who is knowingly in actual or
47 constructive possession of, twenty-eight (28) grams or more of metham-
48 phetamine or amphetamine or of any mixture or substance containing a
49 ~~detectable amount~~ twenty-eight (28) grams or more of methamphetamine
50 or amphetamine is guilty of a felony, which felony shall be known as

1 "trafficking in methamphetamine or amphetamine." If The maximum num-
 2 ber of years of imprisonment for trafficking in methamphetamine or
 3 amphetamine shall be life, and the maximum fine shall be one hundred
 4 thousand dollars (\$100,000). If the person has a prior conviction un-
 5 der this section, and the quantity of methamphetamine or amphetamine
 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); or

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 in~~
 20 ~~methamphetamine or amphetamine shall be life, and the maximum fine~~
 21 ~~shall be one hundred thousand dollars (\$100,000).~~

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

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

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

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

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

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

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

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

1 is twenty-five (25) grams or more, but less than five hundred (500)
 2 grams, such person shall be sentenced to a term of imprisonment of up
 3 to ten (10) years and fined not more than twenty-five thousand dollars
 4 (\$25,000).

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

17 (A) Is ~~two (2)~~ one hundred (100) grams or more, but less than seven
 18 ~~(7) grams~~ one (1) kilogram, such person shall be sentenced to a
 19 mandatory minimum fixed term of imprisonment of ~~three (3)~~ five (5)
 20 years and fined not less than ten thousand dollars (\$10,000); or

21 (B) Is ~~seven (7) grams~~ one (1) kilogram or more, but less than
 22 ~~twenty-eight (28) grams~~, such person shall be sentenced to a
 23 mandatory minimum fixed term of imprisonment of ten (10) years and
 24 fined not less than fifteen thousand dollars (\$15,000).

25 (C) Is ~~twenty-eight (28) grams or more~~, such person shall be sen-
 26 tenced to a mandatory minimum fixed term of imprisonment of fif-
 27 teen (15) years and fined not less than twenty-five thousand dol-
 28 lars (\$25,000).

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

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

43 (A) Is seven (7) grams or more but less than fourteen (14) grams,
 44 or, if such substances are in pill form, consists of one hundred
 45 (100) pills or more but fewer than two hundred fifty (250) pills,
 46 such person shall be sentenced to a mandatory minimum fixed term
 47 of imprisonment of three (3) years and fined ten thousand dollars
 48 (\$10,000);

49 (B) Is fourteen (14) grams or more but less than twenty-eight (28)
 50 grams, or, if such substances are in pill form, consists of two

1 hundred fifty (250) pills or more but fewer than five hundred (500)
2 pills, such person shall be sentenced to a mandatory minimum fixed
3 term of imprisonment of five (5) years and fined fifteen thousand
4 dollars (\$15,000); or

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

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

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

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

25 (c) A determination of weight shall be based solely on the weight of the
26 controlled substance itself and shall not include the weight of surrounding
27 component materials or ingredients.

28 ~~(e)~~ (d) For the purposes of subsections (a) and (b) of this section, the
29 weight of the controlled substance as represented by the person selling or
30 delivering it is determinative if the weight as represented is greater than
31 the actual weight of the controlled substance.

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