



Oregon District Attorneys: Public Safety Agenda 2023 Legislative Session

HB 2645 w/ -1 Amendment – Important Tools to Address Fentanyl Crisis

Modifies law to reflect evolving use of fentanyl: Fentanyl, a Schedule II controlled substance, is rampant in Oregon – often in the form of mass-produced, counterfeit pills that resemble pharmaceutical oxycodone. The prevalence and potency of these illicit pills have led to fentanyl becoming the leading cause of death for U.S. adults ages 18 to 45. Current law classifies fentanyl crimes only by weight, whereas it defines oxycodone crimes by the number of “pills, tablets, capsules or user units.” Because illegal fentanyl is now commonly taken in pill form, HB 2645 with the -1 Amendment will allow for charging of fentanyl specifically in pill form, as it does for oxycodone crimes.

Updates law to recognize illegal fentanyl possession as a misdemeanor (more than >1 grams) and close for-consideration loophole: Oregon currently lacks a law allowing for prosecution of illegal fentanyl possession as a misdemeanor charge. Possession of less than 1 grams is considered a class E violation, and possession of more than 5 grams a class C felony. Because fentanyl is more potent and equally prevalent to drugs such as heroin, this proposal would revise the statute to treat possession of fentanyl the same as heroin, making the possession of 1 gram or more of any mixture or substance containing fentanyl a misdemeanor crime. The proposal also closes a loophole, adding fentanyl as a substance enumerated in the “for consideration” provision of the drug statutes in line with drugs like heroin. Treating fentanyl the same as heroin will support law enforcement’s efforts to reduce dangerous, illicit drug use and provide offenders with access to court-mandated treatment and treatment-based court programs.

Contact:

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| Substance | Designation (red changes made by HB 2645-1) |
|----------------------------------|--|
| Heroin | PCS<1 gram: Class E violation PCS = or >1 gram: Class A misdemeanor All DCS, all MCS, and PCS if SQ, SSQ, SSSQ, or CDO: Felony = or > 5g= SQ = or > 50g= SSQ = or > 100g= SSSQ Delivery for-consideration penalty: Yes Mini SQ for CDO factors: 3g |
| Fentanyl (schedule II substance) | PCS<1 gram: Class E violation PCS = or >1 gram, or 5 or more user units: Class A misdemeanor All DCS, all MCS, and PCS if SQ, SSQ, SSSQ, or CDO: Felony = or > 5g, or 25 or more user units= SQ = or > 50g= SSQ = or > 100g= SSSQ Delivery for-consideration penalty: Yes Mini SQ for CDO factors: 3g or 15 or more user units |
| Methamphetamine | PCS <2 grams= Class E violation PCS = or > 2 grams= Class A misdemeanor All DCS, all MCS, and PCS if SQ, SSQ, SSSQ, or CDO= Felony = or >10g= SQ = or >100g= SSQ = or >500g= SSSQ Delivery for-consideration penalty: Yes Mini SQ for CDO factors: 8g |
| Cocaine | PCS <2 grams= Class E violation PCS = or > 2 grams= Class A misdemeanor All DCS, all MCS, and PCS if SQ, SSQ, SSSQ, or CDO= Felony = or >10g= SQ = or >100g= SSQ = or >500g= SSSQ Delivery for-consideration penalty: Yes Mini SQ for CDO factors: 8g |
| Oxycodone | PCS <40 pills, tablets, or capsules= Class E violation PCS = or >40 pills, tablets, or capsules= Class A misdemeanor All DCS, all MCS, and PCS if SQ, SSQ, SSSQ, or CDO= Felony Delivery for-consideration penalty: No Mini SQ for CDO factors: NA |