

2021 Regular Session

SENATE BILL NO. 69

BY SENATOR MIZELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTROL DANGER SUBSTANCE. Creates the crime of aggravated distribution of a controlled dangerous substance. (gov sig)

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AN ACT

To enact Code of Criminal Procedure Article 814(A)(69), R.S. 14:2(B)(56), and R.S. 40:981.4, relative to controlled dangerous substances; to create the crime of aggravated distribution of a controlled dangerous substance; to designate aggravated distribution of a controlled dangerous substance a crime of violence; to provide relative to responsive verdicts; to provide relative to definitions; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:981.4 is hereby enacted to read as follows:

§981.4. Aggravated distribution of a controlled dangerous substance

A. Aggravated distribution of a controlled dangerous substance is the distribution or dispensing of a controlled dangerous substance, or any combination thereof, as provided for in this Part, under any of the following circumstances:

(1) The offender unlawfully distributes or dispenses a controlled dangerous substance that is the direct cause of serious bodily injury to the recipient who ingested or consumed the controlled dangerous substance.

1 **(2) The offender unlawfully distributes or dispenses a controlled**
2 **dangerous substance to another who subsequently distributes or dispenses such**
3 **controlled dangerous substance that is the direct cause of serious bodily injury**
4 **to the recipient who ingested or consumed the controlled dangerous substance.**

5 **(3) The offender unlawfully distributes or dispenses a controlled**
6 **dangerous substance that the offender knows or should have known has been**
7 **laced with fentanyl, carfentanil, or any other foreign substance that**
8 **substantially increases the likelihood of death or serious bodily injury from use.**

9 **B. Whoever commits the crime of aggravated distribution of a controlled**
10 **dangerous substance shall be imprisoned at hard labor for not less than five**
11 **years nor more than forty years, at least two years of which shall be imposed**
12 **without benefit of probation, parole, or suspension of sentence, and in addition**
13 **may be fined not more than fifty thousand dollars.**

14 **C. For purposes of this Section, "serious bodily injury" shall have the**
15 **same definition as provided in R.S. 14:2(C), and additionally shall include any**
16 **injury that requires the administration of naloxone or other opioid antagonist,**
17 **or requires emergency medical services.**

18 Section 2. R.S. 14:2(B)(56) is hereby enacted to read as follows:

19 §2. Definitions

20 * * *

21 B. In this Code, "crime of violence" means an offense that has, as an element,
22 the use, attempted use, or threatened use of physical force against the person or
23 property of another, and that, by its very nature, involves a substantial risk that
24 physical force against the person or property of another may be used in the course
25 of committing the offense or an offense that involves the possession or use of a
26 dangerous weapon. The following enumerated offenses and attempts to commit any
27 of them are included as "crimes of violence":

28 * * *

29 **(56) Aggravated distribution of a controlled dangerous substance.**

* * *

Section 3. Code of Criminal Procedure Article 814(A)(69) is hereby enacted to read as follows:

Art. 814. Responsive verdicts; in particular

A. The only responsive verdicts which may be rendered when the indictment charges the following offenses are:

* * *

69. Aggravated Distribution of a Controlled Dangerous Substance:

Guilty.

Guilty of attempted aggravated distribution of a controlled dangerous

substance.

Guilty of distribution of a controlled dangerous substance.

Guilty of attempted distribution of a controlled dangerous substance.

Guilty of possession of a controlled dangerous substance.

Guilty of attempted possession of a controlled dangerous substance.

Not guilty.

* * *

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 69 Original 2021 Regular Session Mizell

Present law creates the crime of aggravated distribution of a controlled dangerous substance, defined as the distribution or dispensing of a controlled dangerous substance, or any combination thereof, as provided for in present law (Uniform Controlled Dangerous Substances Law) under any of the following circumstances:

- (1) The offender unlawfully distributes or dispenses a controlled dangerous substance that is the direct cause of serious bodily injury to the recipient who ingested or

consumed the controlled dangerous substance.

- (2) The offender unlawfully distributes or dispenses a controlled dangerous substance to another who subsequently distributes or dispenses such controlled dangerous substance that is the direct cause of serious bodily injury to the recipient who ingested or consumed the controlled dangerous substance.
- (3) The offender unlawfully distributes or dispenses a controlled dangerous substance that the offender knows or should have known has been laced with fentanyl, carfentanil, or any other foreign substance that substantially increases the likelihood of death or serious bodily injury from use.

Proposed law provides that the crime of aggravated distribution of a controlled dangerous substance is punishable by imprisonment at hard labor for between five and 40 years, at least two years of which must be imposed without benefit of probation, parole, or suspension of sentence. Proposed law further provides that in addition to imprisonment, the offender may be fined up to \$50,000.

Proposed law defines the term "serious bodily injury", by reference to present law relative to crimes of violence, as bodily injury that involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death. Proposed law further provides that "serious bodily injury" includes any injury that requires the administration of naloxone or other opioid antagonist, or requires emergency medical services.

Present law defines a "crime of violence" for purposes of present law.

Proposed law retains present law and adds that the crime of aggravated distribution of a controlled dangerous substance is a crime of violence.

Present law provides relative to responsive verdicts in criminal trials.

Proposed law retains present law and adds that the only responsive verdicts that may be rendered when the indictment charges aggravated distribution of a controlled dangerous substance are:

- (1) Guilty of attempted aggravated distribution of a controlled dangerous substance.
- (2) Guilty of distribution of a controlled dangerous substance.
- (3) Guilty of attempted distribution of a controlled dangerous substance.
- (4) Guilty of possession of a controlled dangerous substance.
- (5) Guilty of attempted possession of a controlled dangerous substance.
- (6) Not guilty.
- (7) Guilty.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds C.Cr.P. Art. 814(A)(69), R.S. 14:2(B)(56), and R.S. 40:981.4)