



BILL & AMENDMENT SUMMARY

Imitation Drugs HF 296

Status of Bill: House Floor
Committee: Public Safety (19-0)
Lead Democrats: Rep. Abdul-Samad
Floor Manager: Rep. Klein
Research Analyst: Anna Hyatt 515-281-5939
anna.hyatt@legis.iowa.gov

March 13, 2017

Background

This bill is very similar to HF 567 and HF 2309 which passed the House over the last two years.

Under current law, there are three types of controlled substances: controlled substances, simulated controlled substances, and imitation controlled substances. The first two types of substances are regulated under chapter 124, and the imitation controlled substances are regulated under 124A. Below are the definitions for each type of substance.

Controlled Substance means a drug, substance, or immediate precursor in schedules I through IV of chapter 124.

Simulated Controlled Substance means a substance which is not a controlled substance but which is expressly represented to be a controlled substance, or a substance which is not a controlled substance but which is impliedly represented to be a controlled substance and which because of its nature, packaging, or appearance would lead a reasonable person to believe it to be a controlled substance.

Imitation Controlled Substance means a substance which is not a controlled substance but which by color, shape, size, markings, and other aspects of dosage unit appearance, and packaging or other factors, appears to be or resembles a controlled substance. The Board of Pharmacy may designate a substance as an imitation controlled substance pursuant to the board's rulemaking authority. Chapter 124A.3 lists the factors indicating an imitation controlled substance, and those are copied below.

When a substance has not been designated as an imitation controlled substance by the board of pharmacy and when dosage unit appearance alone does not establish that a substance is an imitation controlled substance, the following factors may be considered in determining whether the substance is an imitation controlled substance:

- 1. The person in control of the substance expressly or impliedly represents that the substance has the effect of a controlled substance.*
- 2. The person in control of the substance expressly or impliedly represents that the substance because of its nature or appearance can be sold or delivered as a controlled substance or as a substitute for a controlled substance.*
- 3. The person in control of the substance either demands or receives money or other property having a value substantially greater than the actual value of the substance as consideration for delivery of the substance.*

Bill Summary

This bill eliminates chapter 124A and brings those laws regarding imitation controlled substances over to the controlled substances chapter, 124, and increases penalties to match the controlled substances penalties. The bill also gives the Legislature more time to codify controlled substances that the Board of Pharmacy identified as controlled substances through Administrative Rules.

Division I – Temporary Controlled Substances

Changes the number of days that the Legislature has to enact into law any designations of a substance as a controlled substance by the Board of Pharmacy. Under current law, that time limit is within 60 days of the next General Assembly. Language in the bill states that the General Assembly must enact the changes and make the changes effective within two years from the effective date of the designation by the Board of Pharmacy. If this timeline is not met, the designation by the Board of Pharmacy is repealed.

Division II – Imitation Controlled Substances

Brings over the definitions found in chapter 124A for Imitation Controlled Substances over to chapter 124.

The bill also incorporates “imitations controlled substances” into the rest of the penalties defined and listed under chapter 124 (enhanced penalties for manufacturing or distribution within one thousand feet of school property, public school, public park; parental notification; and Board of Pharmacy standards).

Division III – Controlled Substances – Penalties

Penalties associated with these imitation substances for the manufacturing, delivering, or possessing with the intent to manufacture or deliver are enhanced to be as follows:

- More than 10 kilograms of an imitation controlled substance is a class B felony and is punishable by confinement of not more than 50 years and a fine of not more than one million dollars.
- More than 5 kilograms but not more than 10 kilograms of an imitation controlled substance is a class B felony and is punishable by confinement of not more than 25 years and a fine between \$5,000 and \$100,000.
- Less than 5 kilograms of an imitation controlled substance is a class C felony and is punishable by confinement of not more than 10 years and a fine between \$1,000 and \$50,000.

Amendment Summary

H-1105 by Klein – Additional Controlled Substances

Adds the following four substances to the list of schedule I controlled substances:

1. N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, (Furanyl Fentanyl: reclassified by the DEA as a schedule 1 substance late 2016.)
2. N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, (Butyryl Fentanyl: Reclassified by the DEA as a schedule 1 substance mid 2016.)
3. N-[1-[2-hydroxy-2-(thiopen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, (Beta-hydroxythiofentanyl: Reclassified by the DEA as a schedule 1 substance mid 2016.)
4. 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide. This substances has been in the news under the name “pink.”