STATE OF NEW YORK

4582

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the penal law, in relation to fentanyl analogues

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 3302 of the public health law is amended by adding a new subdivision 42 to read as follows:

42. "Fentanyl analogue" (a) means any substance that is structurally related to fentanyl by one or more of the following modifications:

(i) replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(ii) substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

(iii) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(iv) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(v) replacement of the N-propionyl group by another acyl group.

(b) such term shall not include:

(i) fentanyl;

(ii) any substance for which there is an approved new drug application by the Federal Food and Drug Administration (FDA); or

(iii) with respect to a particular person, any substance, if an exemption is in effect for investigational use for that person, as provided by 21 U.S.C. § 355, to the extent conduct with respect to the substance is pursuant to such exemption.

§ 2. Subdivision (b) of schedule I of section 3306 of the public health law is amended by adding a new paragraph 71 to read as follows:

(71) Any fentanyl analogue.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05805-01-3

§ 3. Section 220.00 of the penal law is amended by adding a new subdivision 21 to read as follows:

21. "Knowingly" when used in connection with an offense involving the possession or sale, or the attempt or conspiracy to possess or sell a fentanyl analogue, shall not require knowledge by a person of the chemical structure of the substance.

§ 4. This act shall take effect immediately.