

Am. Sub. S. B. No. 1  
As Passed by the Senate

**Topic:** Marihuana and Schedule III, IV, V drugs mixed with fentanyl 1

\_\_\_\_\_ moved to amend as follows:

In line 12 of the title, delete "and the total amount" 2

Delete line 13 of the title 3

In line 14 of the title, delete "doses or 4 grams" 4

In line 106, delete "total amount of" 5

Delete line 107 6

In line 108, delete "is less than four grams" and insert 7  
"defendant establishes by a preponderance of the evidence the 8  
affirmative defense described in division (F) (2) of section 9  
2925.11 of the Revised Code" 10

In line 1260, after "compound" insert "and division (C) 11  
(10)(a) of this section does not apply to the drug involved" 12

After line 1337, insert: 13

"(10) If the drug involved in the violation is a compound, 14



mixture, preparation, or substance that is a combination of a 15  
fentanyl-related compound and marihuana, one of the following 16  
applies: 17

(a) Except as otherwise provided in division (C) (10) (b) of 18  
this section, the offender is guilty of trafficking in marihuana 19  
and shall be punished under division (C) (3) of this section. The 20  
offender is not guilty of trafficking in a fentanyl-related 21  
compound and shall not be charged with, convicted of, or 22  
punished under division (C) (9) of this section for trafficking 23  
in a fentanyl-related compound. 24

(b) If the offender knows or has reason to know that the 25  
compound, mixture, preparation, or substance that is the drug 26  
involved contains a fentanyl-related compound, the offender is 27  
guilty of trafficking in a fentanyl-related compound and shall 28  
be punished under division (C) (9) of this section." 29

In line 2356, delete "or a combination of a" 30

Delete lines 2357 through 2359 31

In line 2360, delete "or is less than four grams" 32

Delete line 2363 33

In line 2364, delete "with the fentanyl-related compound," 34

In line 2365, delete "(2) or"; delete "for the" 35

In line 2366, delete "applicable offense" 36

In line 2367, delete "or aggravated possession of a" 37

In line 2368, delete "fentanyl-related compound"; delete 38  
"(C) (9) (b) or" 39

In line 2370, delete "(C) (9) (b) or" 40

In line 2371, delete " <u>,</u> "; delete " <u>or aggravated</u> "	41
In line 2372, delete " <u>possession of a fentanyl-related compound</u> "	42 43
In line 2373, after " <u>knows</u> " insert " <u>or has reason to know</u> "	44
In line 2376, after " <u>compound</u> " insert " <u>and shall be punished under division (C) (10) of this section</u> "; delete " <u>The penalty shall be determined</u> "	45 46 47
Delete lines 2377 through 2388	48
In line 2390, after " <u>(C) (9)</u> " insert " <u>(a)</u> "	49
In line 2391, after " <u>is</u> " insert " <u>_</u> "	50
In line 2393, after " <u>(9)</u> " insert " <u>(a)</u> "	51
In line 2394, after " <u>involved,</u> " insert " <u>and the affirmative defense described in division (F) (2) of this section does not apply, "</u>	52 53 54
In line 2395, delete " <u>aggravated</u> "	55
In line 2398, delete " <u>aggravated</u> "	56
In line 2405, delete " <u>aggravated</u> "	57
In line 2413, delete " <u>aggravated</u> "	58
In line 2419, delete " <u>aggravated</u> "	59
In line 2426, delete " <u>aggravated</u> "	60
In line 2433, delete " <u>aggravated</u> "	61
In line 2439, delete " <u>aggravated</u> "	62
In line 2491, after " <u>(F)</u> " insert " <u>(1)</u> "	63
After line 2508, insert:	64

"(2) It is an affirmative defense to a charge of 65  
possession of a fentanyl-related compound under division (C) (10) 66  
of this section that the controlled substance that gave rise to 67  
the charge is a combination of a fentanyl-related compound and a 68  
schedule III, IV, or V controlled substance and the offender did 69  
not know or have reason to know that the drug involved contained 70  
a fentanyl-related compound. Notwithstanding any contrary 71  
provision of this section, if, in accordance with section 72  
2901.05 of the Revised Code, the accused sustains the burden of 73  
going forward with evidence of and establishes by a 74  
preponderance of the evidence the affirmative defense described 75  
in this division, the accused may be prosecuted for and may 76  
plead guilty to or be convicted of possession of drugs under 77  
division (C) (2) of this section." 78

In line 4165, delete "(C) (9) (b) or" 79

The motion was \_\_\_\_\_ agreed to.