Ohio Prosecuting Attorneys Association

To: House Judiciary Committee
From: Louis Tobin, Executive Director
RE: House Bill 88 – Fentanyl-Related Compounds in Schedule III, IV, and V Drugs
Date: March 26, 2025

Chairman Thomas, Vice-Chair Mathews, Ranking Member Isaacsohn and members of the House Judiciary Committee I appreciate the opportunity to address questions about the removal of section 2925.11(C)(10) in House Bill 88. This provision requires prosecutors to prove that a criminal defendant knew or had reason to know that a schedule III, IV, or V drug was mixed with fentanyl in order for the defendant to be punished for possession of a fentanyl-related compound.

In most drug cases the prosecution has to prove only that the defendant knowingly possessed or trafficked a controlled substance. Prosecutors do not have to prove that the defendant knew they were trafficking in or in possession of a specific drug like fentanyl, heroin, cocaine, meth, or whatever the drug may be. The type of drug is only relevant for determining what level of felony the defendant is convicted of based on the weight or unit doses of the drugs. For example, someone in possession of heroin that is laced with fentanyl can be convicted and punished for possession of a fentanyl-related compound regardless of whether they knew there was fentanyl in the drugs. Someone in possession of Adderall, a schedule II amphetamine, that is laced with fentanyl can be convicted and punished for possession of a fentanyl-related compound regardless of whether they knew there was fentanyl in the drugs. All that matters is that the offender knowingly obtained, possessed, or used a controlled substance or a controlled substance analog.

This changes for possession of mixtures of schedule III, IV, and V drugs and fentanyl. In these cases, prosecutors have to prove that the defendant knew specifically that the drugs had fentanyl in them, something that is extremely difficult to do. If the prosecution cannot prove the defendant knew the mixture contained fentanyl, the defendant can only be convicted for possession of drugs and punished based on the weight or unit doses of the schedule III, IV, or V drugs in their possession. Under 2925.11(C)(2)(a), possession of a schedule III, IV, or V drug is a misdemeanor unless the amount of the drug equals or exceeds the "bulk amount" or the offender has previously been convicted of a drug abuse offense. The "bulk amount" of different drugs is set out in R.C. 2925.01(D).

Requiring prosecutors to prove that a defendant knew that schedule III, IV, or V drugs contained a mixture of fentanyl, rather than proving only that the defendant knew they were in possession of a controlled substance, has created a huge incentive for drug traffickers to mix fentanyl with schedule III, IV, and V drugs.

Attached to my testimony is an August 2024 public safety bulletin from the Ohio Narcotics Intelligence Center alerting Ohioans to tranq-dope (opioids and sedatives) and benzo-dope (opioids and benzodiazepines) in the Ohio illicit drug supply. Four of the drugs listed in this bulletin as sedatives or benzodiazepines – xylazine, ketamine, alprazolam, and clonazepam – are schedule III or IV depressants that are often mixed with fentanyl. Section 2925.01(D)(2) of the Revised Code provides that the bulk amount of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative is an amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual. In other words, a person can be in possession of up to 120 grams or 30x the maximum daily dose of xylazine, ketamine, alprazolam, or clonazepam before they reach the "bulk amount" and get into felony level drug possession.

Also attached to my testimony are pages from Ohio's controlled substance reference table, published by the Ohio Board of Pharmacy, outlining what the bulk amount or thirty times the maximum daily dose is for ketamine, alprazolam, and clonazepam. Xylazine is not listed because there is no daily dosage for humans since xylazine is a horse tranquilizer.

To put all of this in context, a person caught in possession of 100 unit doses or 10 grams of fentanyl is guilty of F2 possession of a fentanyl-related compound, whether they knew it was fentanyl or not, because all we have to prove is that they knew it was a controlled substance. When the same person creates a 100 gram xylazine/fentanyl mixture that consists of 90 grams of xylazine and the 10 grams of fentanyl, they in all likelihood will be convicted of M1 possession of drugs, because while we can probably prove that they knew they were in possession of a controlled substance, we likely will not be able to prove they knew specifically it had fentanyl in it.

This is a huge sentencing discount for defendants who mix fentanyl with schedule III, IV, and V drugs. This is what House Bill 88 addresses by repealing R.C. 2925.11(C)(10).

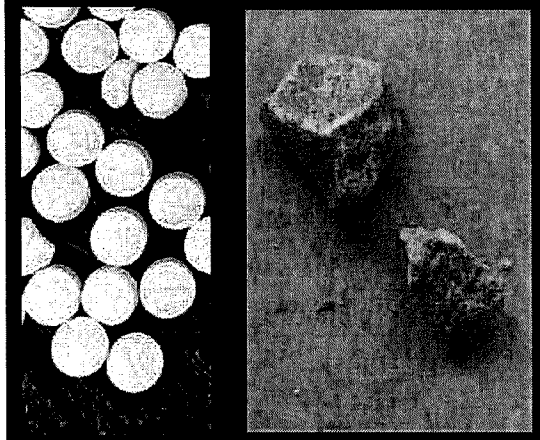
I am happy to answer any questions you might have.

Tranq-Dope and Benzo-Dope in the Ohio Illicit Drug Supply *PUBLIC BULLETIN*

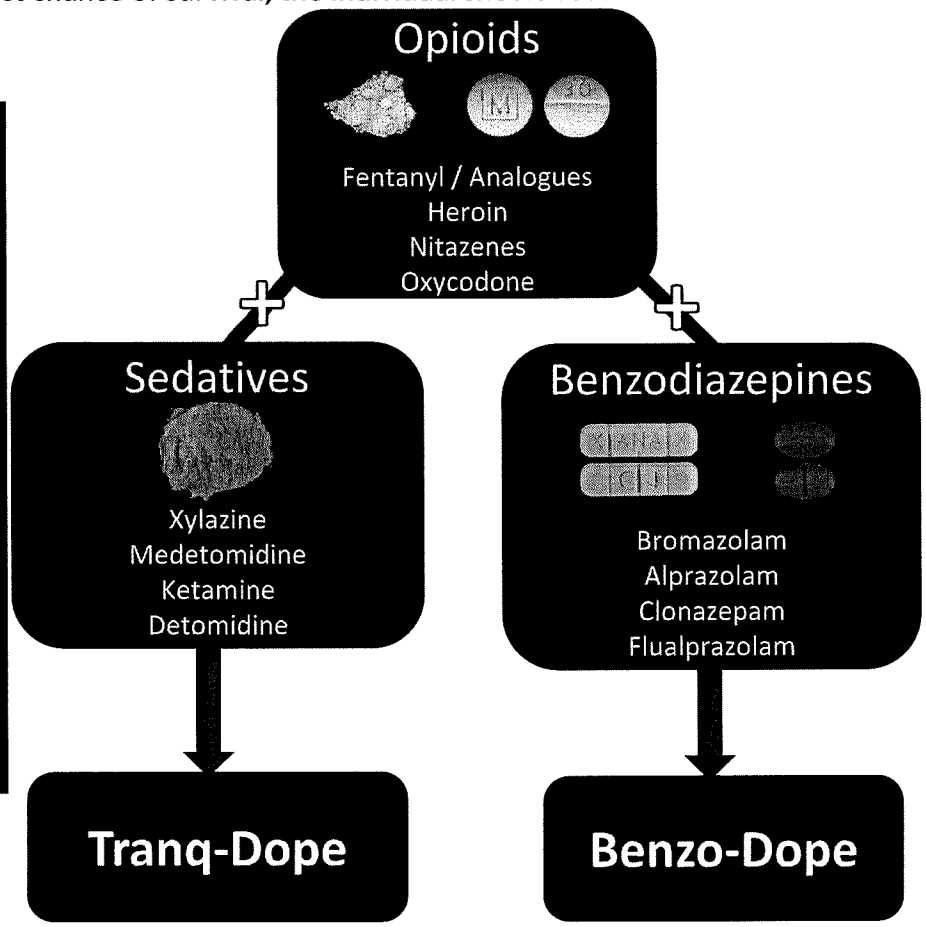
Issue Date: 08/22/2024 | Bulletin No.: 240228-1333129 | Phone No.: 1-833-644-6642

Tranq-dope" (an opioid and sedative combination) and "benzo-dope" (an opioid and benzodiazepine combination) are present in the Ohio illicit drug supply. Consuming these drug combinations can increase the risk of a drug poisoning (overdose) and produce additional negative health outcomes (i.e., necrotic wounds due to xylazine use). These mixtures have been observed in powder, counterfeit pill, and rock-like forms in Ohio. Sedatives and benzodiazepines are depressants that produce sedation and muscle relaxation while also lowering heart rate and blood pressure. Opioids such as fentanyl cause significant respiratory depression, which often is the primary cause of death in the opioid-related drug poisoning cases. **If a drug poisoning is suspected, call 911, stay with the individual, and administer naloxone, if available, until breathing is restored. A person experiencing a drug poisoning from tranq-dope or benzo-dope may not respond to a single dose or multiple doses of naloxone.** Additional doses of naloxone may be administered, but may not fully reverse the symptoms of the drug poisoning. For the best chance of survival, the individual should receive immediate medical attention. For information on naloxone visit naloxone.ohio.gov.

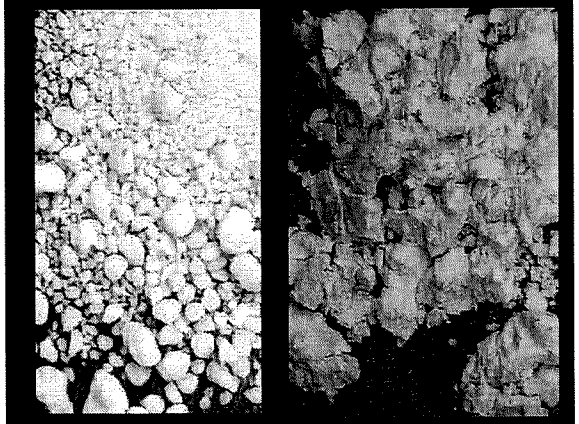
"Tranq-Dope" Fentanyl and Xylazine Mixtures Observed in Ohio



Source: Columbus Police Division Crime Laboratory



"Benzo-Dope" Fentanyl and Bromazolam Mixtures Observed in Ohio



Source: Hamilton County Coroner's Crime Laboratory

About the Ohio Narcotics Intelligence Center

The Ohio Narcotics Intelligence Center (ONIC) was established in 2019 by Governor Mike DeWine and formally codified as a division within the Department of Public Safety in July 2023. The ONIC operates in four locations across Ohio and assists law enforcement with narcotics-related investigations to include specialized assistance with drug-related violent crime, financial analysis, and dark web and cryptocurrency analysis. The ONIC also develops and coordinates policies, protocols, and strategies to be used by local, state, and private

ONIC Ohio Narcotics Intelligence Center · Ohio Department of Public Safety

Ohio Department of

Controlled Substance Reference Table

Annual Review Completed for All Drug Entries on 9-15-2024

Please be advised that the information contained in this table is compiled solely from reference works recognized and approved by the Ohio Board of Pharmacy pursuant to rule 4729:9-2-01.

Abbreviations Used in Reference Table	
C.S.A Schedules	
I	Schedule I
II	Schedule II
III	Schedule III
IV	Schedule IV
V	Schedule V
ExRx	Excepted*
ExAS	Excepted Anabolic Steroid*
Drug Measures	
GM	Gram
HR	Hour
MCG	Microgram
MG	Milligram
ML	Milliliter
Miscellaneous	
APAP	Acetaminophen
HCL	Hydrochloride
N/A	Not Applicable
#	Number
C.S.A.	Controlled Substance Act

*These are drug products which: (1) may be dispensed only upon a prescription issued by a practitioner and, (2) contain controlled substances but have been specifically excepted from the controlled substances schedules. (Title 21, CFR 1308.31.) Accordingly, these drugs are legally classified as dangerous drugs in Ohio. Rx-Prescription Drugs.

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PRODUCT NAME -INGREDIENTS	C.S.A. SCHEDULE	STRENGTH	MAXIMUM DAILY DOSE	--BULK AMOUNTS-- BY WEIGHT	 BY DOSE
ALPRAZOLAM					
Alprazolam	IV				
•Alprazolam *		n/a	n/a	120 Gm powder	n/a
		0.5 mg	10 mg	120 Gm	600 extended release tablets
		1 mg	10 mg	120 Gm	300 extended release tablets
		2 mg	10 mg	120 Gm	150 extended release tablets
		3 mg	10 mg	120 Gm	100 extended release tablets
		0.25 mg	10 mg	120 Gm	1200 tablets
		0.5 mg	10 mg	120 Gm	600 tablets
		1 mg	10 mg	120 Gm	300 tablets
		2 mg	10 mg	120 Gm	150 tablets
		0.25 mg	10 mg	120 Gm	1200 orally disintegrating tablets
		0.5 mg	10 mg	120 Gm	600 orally disintegrating tablets
		1 mg	10 mg	120 Gm	300 orally disintegrating tablets
		2 mg	10 mg	120 Gm	150 orally disintegrating tablets
		1.0 mg/ml	10 mg	n/a	300 ml oral solution
	IV				
•Alprazolam *		0.25 mg	10 mg	120 Gm	1200 tablets
		0.5 mg	10 mg	120 Gm	600 tablets
		1 mg	10 mg	120 Gm	300 tablets
		2 mg	10 mg	120 Gm	150 tablets
Xanax XR	IV				
•Alprazolam *		0.5 mg	10 mg	120 Gm	600 extended release tablets
		1 mg	10 mg	120 Gm	300 extended release tablets
		2 mg	10 mg	120 Gm	150 extended release tablets
		3 mg	10 mg	120 Gm	100 extended release tablets
AMOBARBITAL					
Amobarbital	II				
•Amobarbital Sodium *		500 mg/ml	1000 mg	n/a	60 vials
Amytal	II				
•Amobarbital Sodium *		500 mg/ml	1000 mg	n/a	60 vials
AMPHETAMINE					
Adderall	II				
•Amphetamine Aspartate *		5 mg	60 mg	120 Gm	360 tablets
•Amphetamine Sulfate *		7.5 mg	60 mg	120 Gm	240 tablets
•Dextroamphetamine Saccharate *		10 mg	60 mg	120 Gm	180 tablets
•Dextroamphetamine Sulfate *		12.5 mg	60 mg	120 Gm	144 tablets
		15 mg	60 mg	120 Gm	120 tablets
		20 mg	60 mg	120 Gm	90 tablets
		30 mg	60 mg	120 Gm	60 tablets
Adderall XR	II				
•Amphetamine Aspartate *		5 mg	60 mg	120 Gm	360 extended release capsules
•Amphetamine Sulfate *		10 mg	60 mg	120 Gm	180 extended release capsules
•Dextroamphetamine Saccharate *		15 mg	60 mg	120 Gm	120 extended release capsules
•Dextroamphetamine Sulfate *		20 mg	60 mg	120 Gm	90 extended release capsules
		25 mg	60 mg	120 Gm	72 extended release capsules
		30 mg	60 mg	120 Gm	60 extended release capsules
Adzenys XR-ODT	II				
•Amphetamine *		3.1 mg	18.8 mg	120 Gm	182 extended release orally disintegrating tablets
		6.3 mg	18.8 mg	120 Gm	90 extended release orally disintegrating tablets
		9.4 mg	18.8 mg	120 Gm	60 extended release orally disintegrating tablets
		12.5 mg	18.8 mg	120 Gm	46 extended release orally disintegrating tablets

PRODUCT NAME	C.S.A.		MAXIMUM	--BULK AMOUNTS--	
•INGREDIENTS	SCHEDULE	STRENGTH	DAILY DOSE	BY WEIGHT	BY DOSE
		25 mg	300 mg	120 Gm	360 capsules
Chlordiazepoxide with Clidinium	ExRx				
•Chlordiazepoxide Hydrochloride *		5 mg	n/a	n/a	n/a
•Clidinium Bromide 2.5 mg					
Chlordiazepoxide with Amitriptyline	IV				
•Amitriptyline 12.5mg		5 mg	60 mg	120 Gm	360 tablets
•Chlordiazepoxide *					
•Amitriptyline 25 mg		10 mg	60 mg	120 Gm	180 tablets
•Chlordiazepoxide Hydrochloride *					
Librax	ExRx				
•Chlordiazepoxide Hydrochloride *		5 mg	n/a	n/a	n/a
•Clidinium Bromide 2.5 mg					
CENOBAMATE					
Xcopri	V	12.5 mg	n/a	250 Gm	n/a
•Cenobamate		25 mg	n/a	250 Gm	n/a
		50 mg	n/a	250 Gm	n/a
		100 mg	n/a	250 Gm	n/a
		150 mg	n/a	250 Gm	n/a
		200 mg	n/a	250 Gm	n/a
CLOBAZAM					
Clobazam	IV				
•Clobazam*		2.5 mg/ml	40 mg	120 Gm	480 ml oral suspension
		10 mg	40 mg	120 Gm	120 tablets
		20 mg	40 mg	120 Gm	60 tablets
Onfi	IV				
•Clobazam*		2.5 mg/ml	40 mg	120 Gm	480 ml oral suspension
		10 mg	40 mg	120 Gm	120 tablets
		20 mg	40 mg	120 Gm	60 tablets
Sympazan	IV				
•Clobazam*		5 mg	40 mg	120 Gm	240 sublingual films
		10 mg	40 mg	120 Gm	120 sublingual films
		20 mg	40 mg	120 Gm	60 sublingual films
CLONAZEPAM					
Klonopin	IV				
•Clonazepam *		0.5 mg	20 mg	120 Gm	1200 tablets
		1 mg	20 mg	120 Gm	600 tablets
		2 mg	20 mg	120 Gm	300 tablets
Clonazepam	IV				
•Clonazepam *		0.5 mg	20 mg	120 Gm	1200 tablets
		1 mg	20 mg	120 Gm	600 tablets
		2 mg	20 mg	120 Gm	300 tablets
		0.125 mg	20 mg	120 Gm	4800 orally disintegrating tablets
		0.25 mg	20 mg	120 Gm	2400 orally disintegrating tablets
		0.5 mg	20 mg	120 Gm	1200 orally disintegrating tablets
		1 mg	20 mg	120 Gm	600 orally disintegrating tablets
		2 mg	20 mg	120 Gm	300 orally disintegrating tablets
CLORAZEPATE DIPOTASSIUM					
Clorazepate Dipotassium	IV				
•Clorazepate Dipotassium *		3.75 mg	90 mg	120 Gm	720 tablets
		7.5 mg	90 mg	120 Gm	360 tablets
		15 mg	90 mg	120 Gm	180 tablets

PRODUCT NAME •INGREDIENTS	C.S.A. SCHEDULE	STRENGTH	MAXIMUM DAILY DOSE	--BULK AMOUNTS-- BY WEIGHT	 BY DOSE
HYDROMORPHONE					
Dilaudid	II				
•Hydromorphone Hydrochloride *		0.2 mg/ml	24 mg	n/a	600 ml injection
		1 mg/ml	24 mg	n/a	120 ml injection
		2 mg/ml	24 mg	n/a	60 ml injection
		1 mg/ml	80 mg	n/a	400 ml oral solution
		2 mg	80 mg	20 Gm	200 tablets
		4 mg	80 mg	20 Gm	100 tablets
		8 mg	80 mg	20 Gm	50 tablets
Hydromorphone	II				
•Hydromorphone Hydrochloride *		0.2 mg/ml	24 mg	n/a	600 ml injection
		1 mg/ml	24 mg	n/a	120 ml injection
		10 mg/ml	24 mg	n/a	12 ml injection
		2 mg/ml	24 mg	n/a	60 ml injection
		4 mg/ml	24 mg	n/a	30 ml injection
		1 mg/ml	80 mg	n/a	400 ml oral solution
		n/a	n/a	20 Gm powder	n/a
		2 mg	80 mg	20 Gm	200 tablets
		4 mg	80 mg	20 Gm	100 tablets
		8 mg	80 mg	20 Gm	50 tablets
		8 mg	64 mg	20 Gm	40 extended release tablets
		12 mg	64 mg	20 Gm	27 extended release tablets
		16 mg	64 mg	20 Gm	20 extended release tablets
		32 mg	64 mg	20 Gm	10 extended release tablets
		3 mg	12 mg	20 Gm	20 suppositories
KETAMINE					
Ketamine	III				
•Ketamine Hydrochloride *		10 mg/ml	910 mg	n/a	2730 ml injection
		50 mg/ml	910 mg	n/a	546 ml injection
		100 mg/ml	910 mg	n/a	273 ml injection
		n/a	n/a	120 Gm powder	n/a
Ketalar	III				
•Ketamine Hydrochloride *		10 mg/ml	910 mg	n/a	2730 ml injection
		50 mg/ml	910 mg	n/a	546 ml injection
		100 mg/ml	910 mg	n/a	273 ml injection
LACOSAMIDE					
Lacosamide	V				
Lacosamide		10 mg/mL	n/a	n/a	250 mL oral solution
		200 mg/mL	n/a	n/a	250 mL injection
		50 mg	n/a	250 Gm	n/a
		100 mg	n/a	250 Gm	n/a
		150 mg	n/a	250 Gm	n/a
		200 mg	n/a	250 Gm	n/a
Motpoly XR	V				
Lacosamide					
		100 mg ER	n/a	250 Gm	n/a
		150 mg ER	n/a	250 Gm	n/a
		200 mg ER	n/a	250 Gm	n/a
Vimpat	V				
•Lacosamide *		10 mg/ ml	n/a	n/a	250 ml oral solution
		200 mg/ 20 ml	n/a	n/a	250 ml injection
		50 mg	n/a	250 Gm	n/a
		100 mg	n/a	250 Gm	n/a
		150 mg	n/a	250 Gm	n/a