

House Study Bill 44 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to the manufacture or delivery of a controlled
2 substance resulting in death and including information or
3 evidence collected as a result of a drug-related overdose,
4 and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.418, subsection 2, Code 2023, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *e.* Delivery of a controlled substance
4 resulting in death under section 707.5A if such delivery
5 involved the sharing of the controlled substance without
6 profit.

7 Sec. 2. NEW SECTION. **707.5A Manufacture or delivery of a**
8 **controlled substance resulting in death.**

9 1. A person commits a class "B" felony when the person
10 unintentionally causes the death of another person by the
11 manufacture or delivery of a controlled substance, other than
12 marijuana, a counterfeit substance, a simulated controlled
13 substance, or an imitation controlled substance, in violation
14 of section 124.401, subsection 1.

15 2. A person commits a class "B" felony when a person from
16 another state unintentionally causes the death of another
17 person in this state by the manufacture or delivery of a
18 controlled substance, other than marijuana, in violation of
19 the law of another jurisdiction, which, if the violation had
20 been committed in this state, could be charged under section
21 124.401, subsection 1.

22 3. For purposes of this section, a person's act of
23 manufacturing or delivering a controlled substance resulting in
24 the death of another person shall be deemed to have caused the
25 other person's death when the controlled substance contributes
26 to the other person's death.

27 Sec. 3. Section 902.12, subsection 1, Code 2023, is amended
28 by adding the following new paragraph:

29 NEW PARAGRAPH. *g.* A violation of section 707.5A if the
30 person has been convicted of or received a deferred judgment
31 for a prior violation of section 124.401, subsection 1,
32 or a conviction or the equivalent of a deferred judgment
33 for violations in any other jurisdiction under statutes
34 substantially corresponding to section 124.401, subsection 1.

35 Sec. 4. Section 907.3, subsection 1, paragraph a, Code 2023,

1 is amended by adding the following new subparagraph:

2 NEW SUBPARAGRAPH. (15) The offense is a violation of
3 section 707.5A and the defendant has been convicted of or
4 received a deferred judgment for a prior violation of section
5 124.401, subsection 1, or a conviction or the equivalent of
6 a deferred judgment for violations in any other jurisdiction
7 under statutes substantially corresponding to section 124.401,
8 subsection 1.

9 Sec. 5. Section 907.3, subsection 2, paragraph a, Code 2023,
10 is amended by adding the following new subparagraph:

11 NEW SUBPARAGRAPH. (9) The offense is a violation of
12 section 707.5A and the defendant has been convicted of or
13 received a deferred judgment for a prior violation of section
14 124.401, subsection 1, or a conviction or the equivalent of
15 a deferred judgment for violations in any other jurisdiction
16 under statutes substantially corresponding to section 124.401,
17 subsection 1.

18 Sec. 6. Section 907.3, subsection 3, Code 2023, is amended
19 by adding the following new paragraph:

20 NEW PARAGRAPH. *h.* The offense is a violation of section
21 707.5A and the defendant has previously been convicted of
22 or received a deferred judgment for a violation of section
23 124.401, subsection 1, or a conviction or the equivalent of
24 a deferred judgment for violations in any other jurisdiction
25 under statutes substantially corresponding to section 124.401,
26 subsection 1.

27

EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to the manufacture or delivery of
31 a controlled substance resulting in death, and provides
32 penalties.

33 The bill provides that protected information, as defined in
34 Code section 124.418, collected as a result of a drug-related
35 overdose shall not be considered to support probable cause

1 and shall not be admissible as evidence against an overdose
2 patient or overdose reporter for the delivery of a controlled
3 substance resulting in death under new Code section 707.5A if
4 such delivery involved the sharing of the controlled substance
5 without profit.

6 The bill establishes new Code section 707.5A, manufacture
7 or delivery of a controlled substance resulting in death,
8 which provides that a person commits a class "B" felony
9 when a person, either from this state or another state,
10 unintentionally causes the death of another person by the
11 manufacture or delivery of a controlled substance, other than
12 marijuana, a counterfeit substance, a simulated controlled
13 substance, or an imitation controlled substance, in violation
14 of Code section 124.401(1) (manufacture or delivery of a
15 controlled substance). The bill provides that a person's act
16 of manufacturing or delivering a controlled substance resulting
17 in the death of another person shall be deemed to have caused
18 the other person's death when the controlled substance
19 contributes to the other person's death.

20 The bill provides that a person serving a sentence for a
21 conviction of the manufacture or delivery of a controlled
22 substance resulting in death in violation of the bill shall
23 be denied parole or work release unless the defendant has
24 served at least seven-tenths of the maximum term of the
25 defendant's sentence if the defendant has been convicted of
26 or received a deferred judgment for a prior violation of Code
27 section 124.401(1), or a conviction or the equivalent of a
28 deferred judgment for violations in any other jurisdiction
29 under statutes substantially corresponding to Code section
30 124.401(1).

31 The bill provides that upon a plea of guilty, a verdict
32 of guilty, or a special verdict upon which a judgment of
33 conviction may be rendered, a court shall not defer judgment,
34 defer the sentence, or suspend the sentence if the offense
35 is a violation of Code section 707.5A and the defendant has

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1 been convicted of or received a deferred judgment for a prior
2 violation of Code section 124.401(1), or a conviction or the
3 equivalent of a deferred judgment for violations in any other
4 jurisdiction under statutes substantially corresponding to Code
5 section 124.401(1).