

SB 206 (Sen. McInnis) – Stop Counterfeit Pills Act

The Stop Counterfeit Pills Act (SB 206) updates North Carolina law to address the growing threat of counterfeit pills containing fentanyl, methamphetamine, or other dangerous drugs.

The Drug Enforcement Administration issued a Public Safety Alert in late 2021,¹ warning Americans of the alarming increase in the lethality and availability of fake prescription pills containing fentanyl and methamphetamine. The alert identified a significant surge in counterfeit pills that are mass-produced by criminal drug networks in labs and deceptively marketed as legitimate prescription pills.

These counterfeit pills have been seized by the DEA in every U.S. state – including North Carolina – in unprecedented quantities. DEA laboratory testing has revealed a dramatic rise in the number of counterfeit pills containing at least two milligrams of fentanyl, which is considered a lethal dose. A deadly dose of fentanyl is small enough to fit on the tip of a pencil.

Criminal drug networks are mass-producing these fake pills and falsely marketing them as legitimate prescription pills to deceive the public. Fake prescription pills are easily accessible and often sold on social media and e-commerce platforms, making them available to anyone with a smartphone, including young people. Many fake pills are made to look like prescription drugs such as oxycodone (Oxycontin®, Percocet®), hydrocodone (Vicodin®), and alprazolam (Xanax®); or stimulants like amphetamines (Adderall®).²

When it comes to these deadly counterfeit pills, North Carolina law has not kept up with the criminal drug networks that are mass-producing them. Under our state Controlled Substances Act, it is a misdemeanor for a person to possess equipment used to make counterfeit pills. [NCGS 90-108(a)(12).]

The Stop Counterfeit Pills Act strengthens NC law by making it a felony to possess such equipment “knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance.” The Act borrows language from well-established federal law to cover a broader array of equipment that may be used to make counterfeit controlled substances.

The NC Controlled Substances Act defines “counterfeit controlled substance” as a controlled substance that – in appearance, packaging or labeling and without permission – bears the trademark, trade name, or other identifying mark of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance and that thereby falsely purports to be the product of, or to have been distributed by, the other manufacturer, distributor, or dispenser. [Definition paraphrased from NCGS 90-87(6).]

The North Carolina Department of Justice helped draft this legislation. Questions may be addressed to Senator McInnis or Steven Mange, Director of Policy and Legislative Affairs at NC DOJ (smange@ncdoj.gov).

¹ “DEA Issues Public Safety Alert on Sharp Increase in Fake Prescription Pills Containing Fentanyl and Meth,” U.S. DEA, September 27, 2021, <https://www.dea.gov/press-releases/2021/09/27/dea-issues-public-safety-alert>

² “One Pill Can Kill: Facts About Fake Pills,” U.S. DEA, <https://www.dea.gov/onepill>