State of Wisconsin

Date of enactment:
2025 Senate Bill 692 Date of publication*:

2025 WISCONSIN ACT

AN ACT ***to amend*** 961.41 (1) (a), 961.41 (1r), 961.49 (1m) (intro.), 971.365 (1) (a), 971.365 (1) (b) and 971.365 (2); ***to create*** 961.41 (1) (dn) and 961.41 (1m) (dn) of the statutes; **relating to:** penalties for controlled substance offenses involving carfentanil and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 961.41 (1) (a) of the statutes is amended to read:

961.41 **(1)** (a) *Schedule I and II narcotic drugs generally.* Except as provided in par. (d) ~~or,~~ (dm), <u>or (dn),</u> if a person violates this subsection with respect to a controlled substance included in schedule I or II which is a narcotic drug, or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, the person is guilty of a Class E felony.

SECTION 2. 961.41 (1) (dn) of the statutes is created to read:

961.41 **(1)** (dn) *Carfentanil.* If the person violates this subsection with respect to carfentanil and the amount manufactured, distributed, or delivered is:

1. Ten grams or less, the person is guilty of a Class E felony.

2. More than 10 grams but not more than 50 grams, the person is guilty of a Class D felony.

3. More than 50 grams, the person is guilty of a Class C felony.

SECTION 3. 961.41 (1m) (dn) of the statutes is created to read:

961.41 **(1m)** (dn) *Carfentanil.* If the person violates this subsection with respect to carfentanil and the amount possessed, with intent to manufacture, distribute, or deliver, is:

1. Ten grams or less, the person is guilty of a Class E felony.

2. More than 10 grams but not more than 50 grams, the person is guilty of a Class D felony.

3. More than 50 grams, the person is guilty of a Class C felony.

SECTION 4. 961.41 (1r) of the statutes is amended to read:

961.41 **(1r)** DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight of cocaine, cocaine base, fentanyl, a fentanyl analog, <u>carfentanil,</u> heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, tetrahydrocannabinols, synthetic cannabinoids, or substituted cathinones, or any controlled substance analog of any of these substances together with any compound, mixture, diluent, plant material or other substance mixed or combined with the controlled substance or controlled substance analog. In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols means anything included under s. 961.14 (4) (t) and includes the weight of any marijuana.

---

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 5. 961.49 (1m) (intro.) of the statutes is amended to read:

961.49 **(1m)** (intro.) If any person violates s. 961.41 (1) (cm), (d), (dm), (dn), (e), (f), (g) or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (dm), (dn), (e), (f), (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base, fentanyl, a fentanyl analog, carfentanil, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols or a controlled substance analog of any of these substances and the delivery, distribution or possession takes place under any of the following circumstances, the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years:

SECTION 6. 971.365 (1) (a) of the statutes is amended to read:

971.365 **(1)** (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1) (cm), (d), (dm), (dn), (e), (f), (g), or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

SECTION 7. 971.365 (1) (b) of the statutes is amended to read:

971.365 **(1)** (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41 (1m) (cm), (d), (dm), (dn), (e), (f), (g), or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

SECTION 8. 971.365 (2) of the statutes is amended to read:

971.365 **(2)** An acquittal or conviction under sub. (1) does not bar a subsequent prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m) (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats., or s. 961.41 (1) (cm), (d), (dm), (dn), (e), (f), (g), or (h), (1m) (cm), (d), (dm), (dn), (e), (f), (g), or (h), or (3g) (am), (c), (d), (e), or (g) on which no evidence was received at the trial on the original charge.