

1 SB280  
2 204425-1  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 05-MAR-20

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8 SYNOPSIS: Under existing law, the distribution of a  
9 controlled substance is a crime.

10 This bill would provide that if a person  
11 provides a controlled substance that is laced with  
12 another substance and the use of that controlled  
13 substance is the proximate cause of the death of a  
14 person, the person is guilty of the crime of  
15 controlled substance murder.

16 This bill would provide an exemption for  
17 licensed physicians, pharmacists, and other  
18 licensed health care practitioners engaged in their  
19 respective practices.

20 This bill would provide enhanced criminal  
21 penalties for a person with certain prior felony  
22 convictions who is subsequently convicted of  
23 violations.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of  
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a  
2 new or increased expenditure of local funds from  
3 becoming effective with regard to a local  
4 governmental entity without enactment by a 2/3 vote  
5 unless: it comes within one of a number of  
6 specified exceptions; it is approved by the  
7 affected entity; or the Legislature appropriates  
8 funds, or provides a local source of revenue, to  
9 the entity for the purpose.

10 The purpose or effect of this bill would be  
11 to require a new or increased expenditure of local  
12 funds within the meaning of the amendment. However,  
13 the bill does not require approval of a local  
14 governmental entity or enactment by a 2/3 vote to  
15 become effective because it comes within one of the  
16 specified exceptions contained in the amendment.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 Relating to crimes and offenses; to create the J. K.  
23 Elrod Act; to create the crime of controlled substance murder;  
24 to provide certain exemptions; to provide criminal penalties;  
25 to provide an enhanced criminal penalty under certain  
26 conditions; and in connection therewith would have as its  
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds within the meaning of Amendment 621  
2 of the Constitution of Alabama of 1901, now appearing as  
3 Section 111.05 of the Official ReCompilation of the  
4 Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. (a) This act shall be known and may be  
7 cited as the J. K. Elrod Act.

8 (b) As used in this section, following terms shall  
9 have the following meanings:

10 (1) CONTROLLED SUBSTANCE. As defined in Section  
11 20-2-2, Code of Alabama 1975.

12 (2) LACED WITH ANOTHER SUBSTANCE. Laced, combined,  
13 adulterated, diluted, or cut with a substance in order to make  
14 another substance more affordable, more potent, easier to  
15 obtain, more profitable, more appealing, or for any other  
16 reason. The term includes, but is not limited to, any of the  
17 following substances laced, combined, adulterated, diluted, or  
18 cut with another substance: Fentanyl, laundry detergent,  
19 talcum powder, rat poison, embalming fluid, PCP, benzocaine,  
20 procaine, strychnine, scopolamine, synthetic opioids,  
21 formaldehyde, phencyclidine, quinine, caffeine, lactose,  
22 inositol, dextrose, mannitol, starch, lidocaine,  
23 methylamphetamine, methylphenidate, ephedrine, pectine,  
24 glucose, saccharin, white rice flour, maltodextrin, and lead.

25 (3) PROVIDES. To sell, furnish, give away, deliver,  
26 or otherwise distribute, with or without a consideration.

1           (c) Except as provided in subsection (d), a person  
2 commits the crime of controlled substance murder if all of the  
3 following occur:

4           (1) The person knowingly provides a controlled  
5 substance that is laced with another substance to another  
6 person.

7           (2) The person knows or should have known that the  
8 controlled substance is laced with another substance.

9           (3) The use of the controlled substance is a  
10 proximate cause of the death of a person.

11           (d) Nothing under this section shall be construed to  
12 apply to a licensed physician engaged in the practice of  
13 medicine or a licensed dentist engaged in the practice of  
14 dentistry, or other licensed health care practitioner engaged  
15 in his or her respective practice. As used in this  
16 subdivision, the term practitioner includes any of the  
17 following:

18           a. A physician.

19           b. A licensed nurse practitioner.

20           c. A dentist.

21           d. A veterinarian.

22           e. A scientific investigator.

23           f. Any other person licensed, registered, or  
24 otherwise permitted to distribute, dispense, conduct research  
25 with respect to, or to administer a controlled substance in  
26 the course of professional practice or research in this state.

27           g. A pharmacy.

1           h. A hospital, as defined in Section 22-21-20, Code  
2 of Alabama 1975.

3           i. Any other institution licensed, registered, or  
4 otherwise permitted to distribute, dispense, conduct research  
5 with respect to, or to administer a controlled substance in  
6 the course of professional practice or research in this state.

7           (e) (1) A person who commits a violation of this  
8 section shall be guilty of a Class B felony.

9           (2) If a person is convicted of violating this  
10 section and has a prior conviction for a felony drug offense,  
11 the person shall be sentenced to a term of imprisonment of not  
12 less than 20 years.

13           Section 2. Although this bill would have as its  
14 purpose or effect the requirement of a new or increased  
15 expenditure of local funds, the bill is excluded from further  
16 requirements and application under Amendment 621, now  
17 appearing as Section 111.05 of the Official Recompilation of  
18 the Constitution of Alabama of 1901, as amended, because the  
19 bill defines a new crime or amends the definition of an  
20 existing crime.

21           Section 3. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.