



NEW YORK STATE SENATOR

Kenneth P. LaValle

## Senator Ken LaValle: State Senate Approves Package of Bills to Combat Statewide Drug Abuse

KENNETH P. LAVALLE June 21, 2017

| ISSUE: **COMBATING HEROIN AND OPIOID ADDICTION**



**- Measures Help Increase Enforcement, Address Growth of Synthetic Drug Trade, Protect Children, and Enhance Treatment**

June 21, 2017 – Senator Ken LaValle reported that State Senate approved a package of more than a dozen bills to help end the state’s deadly heroin, opioid and synthetic drug epidemic. The legislation focuses on enforcement to hold drug dealers more accountable, regulates many synthetic opioids, bolsters protections for children, and improves the state’s treatment programs to help assist individuals with recovery, among other measures.

Senator LaValle, a member of the NY Senate Joint Task Force on Heroin and Opioid Addiction, said, “Fighting Heroin and Opioid addiction remains a top priority of mine, as it has been for a number of years. The heroin crisis continues to affect many communities throughout our region. It persists in touching individuals in every social and economic group. It is critically important that we utilize all the resources and tools available to halt this epidemic. It is my hope that the Assembly acts quickly to approve these measures, and that the Governor signs them into law immediately.”

The measures build upon many other Senate actions taken since 2014, in addition to \$214 million the Senate Joint Task Force on Heroin and Opioid Addiction secured in this year’s budget. This record-high level of funding will help improve prevention, treatment, recovery and education services across the state.

The measures:

**Strengthening Enforcement:**

**Enacting “Laree’s Law” – Holding Drug Dealers Accountable:** Bill [S2761](#) establishes the crime of homicide by sale of an opiate controlled substance. Currently, a person who provides an illicit drug that results in the death of a user can typically only be charged with criminal sale

of a controlled substance, allowing those involved in the illicit drug trade to escape prosecution for the deaths caused by their actions.

**Creating Drug Free Zones Around Drug or Alcohol Treatment Centers:** Bill [S1127](#) would criminalize the sale of a controlled substance on the grounds of a drug or alcohol treatment center, or within 1,000 feet of such facilities. Statistics show that drug dealers often prey on individuals with addictions by sitting in the immediate vicinity of a drug or alcohol treatment center or methadone clinic waiting for people to come out so they can sell them drugs.

**Establishing New Penalties for Heroin Sales:** Bill [S880](#) would create appropriate level penalties as it relates to heroin sales, taking into account the lighter weight of heroin. Heroin weighs less than other drugs and therefore more doses of heroin are needed to trigger various criminal offenses.

**Making it Easier to Prosecute Heroin Dealers:** Bill [S638](#) would assist in the prosecution of heroin dealers by creating a presumption that the possession of 50 or more individual packages containing heroin and/or having an aggregate value of \$300 is possession with intent to sell. Currently, dealers can carry large quantities of the drug before triggering a felony charge of possession.

**Cracking Down on Black Market Prescription Drugs:** Bill [S2814](#) would establish the offense of fraudulent prescription, dispensing and procurement of non-controlled substance prescription medications and devices, and establish the offense of unlawful possession of non-controlled substance prescription medications and devices. The gaps in existing law and the growth of a black market make it self-evident that change is necessary. This bill will

address the problem by increasing or establishing criminal penalties that better fit these crimes.

**Increasing the Penalties for Heroin and Polydrug Offenses:** Bill [S2744](#) would increase the penalties for selling heroin, compounds that include heroin, and "polydrug" compounds that include heroin and another narcotic. Deadly polydrug combinations are gaining in popularity and to stop needless deaths, the bill strengthens penalties for heroin and polydrug offenses as an added disincentive for drug dealers.

### **Prohibiting Dangerous Synthetic Drugs:**

**Improving the Regulation of Fentanyl:** Bill [S5884](#) adds six new derivatives of fentanyl to the controlled substance schedule regulated by the state Department of Health. Fentanyl and fentanyl-combined drugs are a major driver of the many recent overdoses that have occurred across New York State. It is vital for public health and safety to properly regulate this potent drug.

**Cracking Down on The Sale of Carfentanil:** Bill [S623](#) would make the sale of 2 milligrams or more of Carfentanil a Class A-II felony and the sale of 10 milligrams or more of Carfentanil a Class A-I felony. Carfentanil is synthetic opioid and a schedule II controlled substance, which is 100 times deadlier than fentanyl, and 10,000 times stronger than morphine.

**Conforming State Controlled Substances With Federal Schedules:** Bill [S5357](#) updates the state controlled substances schedules, promoting consistency with the federal schedules and promoting health and safety. Consistency between the state and federal schedules is important to address the prevalence of abuse and misuse of controlled substances. The bill

would also add other known dangerous substances to the state's schedule of controlled substances, including a synthetic opioid analgesic, often known as AH-7921, which can cause a deadly psychoactive reaction.

### **Protecting Children from Drug Abuse:**

**Toughening Penalties for Sale of a Controlled Substance to Minors:** Bill [S3845](#) would help curb rising drug abuse among high school students and other youth by making the sale of a controlled substance by an adult to a minor under the age of 14 a class A-II felony.

**Limiting Children's Opioid Exposure:** Bill [S5949](#) helps address the increasing risk of children becoming addicted to opioids and heroin after being prescribed painkillers for medical procedures or illegally sharing extra prescriptions. The bill requires a health practitioner to receive written consent from a minor's parent or legal guardian in order to prescribe a medical treatment containing opioids, as well as to discuss the risks of addiction and dangers of overdose associated with the medication. The bill also limits the prescription for a controlled substance containing an opioid to a seven-day duration unless there is a medical emergency that puts the child's health or safety at risk.

### **Preventing Addiction and Facilitating Successful Recoveries:**

**Requiring Patient Counseling Prior to Issuing a Prescription for a Schedule II Opioid:** Bill [S5670](#) requires health care practitioners to consult with a patient regarding the quantity of an opioid prescription and the patient's option to have the prescription written for a lower quantity. The physician must also inform the patient of the risks associated with taking an opiate medication, and the reason for issuing the medication must be documented in the

patient's medical record.

**Preventing Predatory and Deceptive Substance Abuse Treatment:** Bill [S6544](#) makes it a crime to offer to or accept any kickback from an individual or entity that provides substance abuse services in exchange for patient referral and admission. There has been a rise in individuals who aggressively pursue people in need of substance use disorder treatment services and, for a sometimes-extravagant fee, promise admission to treatment programs. For individuals engaging in this predatory behavior, the most desirable patients are those with robust insurance coverage, and out-of-network benefit packages. Patient brokers refer these clients to programs offering the highest rate of "return" to the patient broker, with little or no regard for the patient's specific needs. This predatory practice capitalizes on, and exploits, families' fears while putting patients at risk of inappropriate treatment.

**Expanding Access to Funding for State Substance Abuse Services:** Bill [S898](#) authorizes the state Office of Alcoholism and Substance Abuse Services (OASAS) to provide funding to substance use disorder and/or compulsive gambling programs operated by for profit agencies. Current statute states all funds issued by OASAS to provide addiction prevention, treatment and recovery services must be awarded to non-profit providers. For-profit organizations, which provide similar services are unable to apply for state contracts through OASAS and such restrictions limits competition within the RFP process that would ensure state dollars are being used in the most efficient way possible.

The bills will be transmitted to the Assembly for consideration.

In addition to the bills passed this week, the Senate previously passed legislation bolstering regulation and penalties for fentanyl derivatives. Bill [S933A](#) adds new derivatives of fentanyl

to the controlled substance schedule and increases criminal penalties for the sale of an opiate containing a fentanyl derivative.

This week's actions are the latest in the Senate Republicans' legislative efforts to combat the opioid and heroin crisis – first concentrating on the abuse of prescription painkillers, and then following the opioid addiction trend as it turned to heroin.

Since 2014, the Senate's Joint Senate Task Force on Heroin and Opioid Addiction has held forums that solicit input from stakeholders and experts, and use the information collected to develop recommendations for legislative action. Senator LaValle, a member of the Task Force, noted that significant legislation has already been enacted as a result of the Task Force's efforts, and more continues to be developed to address the ongoing crisis.