

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. -37 ()

Introduced by:

Thomas J. Fisher

**AN ACT TO AMEND 9 GUAM CODE ANN.
SECTIONS 67.401 AND 67.407**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Intent. Fentanyl is a powerful, dangerous, synthetic opioid that is 50 times stronger than heroin and 100 times stronger than morphine. It has been used medicinally to treat chronic pain following surgery or in patients with cancer since 1968. Fentanyl is also manufactured for the illicit drug market for those seeking a more powerful “high” than heroin. Street fentanyl is either injected in its liquid form, smoked, inhaled or otherwise ingested. Street names for fentanyl include Murder 8, Apache, Dance Fever, Jackpot, Friend, Goodfellas and Tango and Cash among others. The typical effects of fentanyl are similar to heroin, and include euphoria, relaxation, pain relief, sedation, confusion, nausea, vomiting, dizziness, drowsiness, pupil constriction and death.

Recently, the infant son of a Californian tech worker overdosed on fentanyl he found while crawling around a playground in a San Francisco neighborhood. The 10-month-old was playing with his brother at a park when he began struggling to breathe and turned blue. According to the infant’s

1 caregiver, the baby had been crawling in the grass and putting leaves in his
2 mouth like he normally does before suddenly falling ill, so she called 911. After
3 determining there was nothing blocking his airway, paramedics administered a
4 life-saving dose of the anti-opioid medication Narcan — bringing the boy back
5 from the brink of death. Within seconds, the infant began crying and breathing
6 again. Also in California, a mother and father are facing homicide and child
7 abuse charges after their 18-month-old boy died of a fentanyl overdose. The
8 infant died on December 16, 2022. The sheriff's office said deputies responded
9 to a home for a report of a baby not breathing. The boy was later pronounced
10 dead at Memorial Medical Center. The mother and the father both admitted
11 in interviews with investigators that they had fallen asleep while the child was
12 playing on the floor. The father also admitted to hiding fentanyl, other drugs
13 and paraphernalia that were accessible by the child prior to the deputies'
14 arrival that night. All of those items were located during a search of the
15 family's home. The child's cause of death was fentanyl poisoning.

16 *I liheslaturan Guahan* finds the illicit introduction and transfer of this
17 powerful poison to be an immediate danger to our children and other
18 vulnerable members of our community.

19 **Section 2.** 9 Guam Code Ann. § 67.401.1 is hereby amended to read;
20 § 67.401.1. Possession, Etc. for Illegal Delivery, Dispensing or
21 Manufacturing; Defined; Punishments Classified According to Drug Class
22 Involved.

23 (a) Except as authorized by this Act, it shall be unlawful for any
24 person knowingly or intentionally:

25 (1) to manufacture, deliver or possess with intent to
26 manufacture, deliver or dispense a controlled substance; or

1 (2) to manufacture, or deliver, or possess with intent to
2 manufacture or deliver, a controlled substance that, or the
3 container or labeling of which, without authorization, bears the
4 trademark, trade name, or other identifying mark, imprint,
5 number, or device, or a likeness thereof, of a manufacturer,
6 distributor, or dispenser, other than the person who
7 manufactured, distributed or dispensed the substance.

8 (3) Except as authorized by this Act, it shall be unlawful for
9 any person to negligently, recklessly, knowingly or intentionally
10 deliver or dispense a controlled substance as listed in Schedule I
11 as per Appendix A or Schedule II as per Appendix B to an
12 individual under age eighteen (18)

13 (b) Any person who violates Subsection (a) with respect to:

14 (1) a substance classified in Schedule I, II or III shall be guilty of
15 a felony of the first degree and shall not be eligible for work
16 release or educational programs outside the confines of prison.

17 (2) a substance classified in Schedule IV or V shall be guilty of
18 a felony of the second degree, provided that any person convicted
19 under this Subsection receiving a term of imprisonment shall not
20 be eligible for work release or educational programs outside the
21 confines of prison.

22 **Section 3.** 9 Guam Code Ann. § 67.407, Distribution to Persons
23 Under Age Eighteen (18), to Persons Suffering from a Mental Illness, Disease
24 or Defect, or to Pregnant Persons; Distribution Near Schools or Drug Free
25 School Zones; Penalties. is amended by adding new subsections.

26 (a) Any person who is at least eighteen (18) years of age who is found
27 guilty of an offense pursuant to § 67.401.1 (a)(1) of this Chapter by

1 distributing a substance listed in Schedule I or II as per Appendices A and B
2 of this Chapter which is a narcotic drug to a person under eighteen (18) years
3 of age, to a person suffering from a mental illness, disease or defect, or to a
4 pregnant person shall be sentenced to serve, in addition to the sentence
5 prescribed by § 67.401.4, a term of five (5) years imprisonment. Imposition
6 or execution of such sentence shall not be suspended and probation shall not
7 be granted. Parole or work release shall not be granted until the offender has
8 served the additional five (5) year sentence prescribed by this Subsection.

9 (b) Any person who is at least eighteen (18) years of age who is found
10 guilty of an offense pursuant to § 67.401.1 (a)(1) of this Chapter by
11 distributing a non-narcotic controlled substance listed in Schedule I or II as
12 per Appendices A and B of this Chapter, or a substance listed in Schedules
13 III, IV, or V as per Appendices C – E of this Chapter to a person under
14 eighteen (18) years of age, to a person suffering from a mental illness, disease
15 or defect, or to a pregnant person shall be sentenced to serve, in addition to
16 the sentence prescribed by § 67.401.4, three (3) years of imprisonment.
17 Imposition or execution of such sentence shall not be suspended and probation
18 shall not be granted. Parole or work release shall not be granted until the
19 offender has served the additional three (3) year sentence prescribed by this
20 Subsection.

21 (c) Any person who is found guilty of an offense pursuant to §
22 67.401.1(a)(1) of this Chapter by distributing a substance listed in Schedule I
23 or II as per Appendices A and B of this Chapter, which is a narcotic drug, in
24 or on a school, or within the Drug Free School Zone as defined herein, shall
25 be sentenced to serve, in addition to the sentence prescribed by § 67.401.4 of
26 this Chapter, a term of five (5) years imprisonment. Imposition or execution
27 of such sentence shall not be suspended and probation shall not be granted.

1 Parole or work release shall not be granted until the offender has served the
2 additional five (5) years prescribed by this Subsection (d) Any person who is
3 found guilty of an offense pursuant to § 67.401.1(a)(1) of this Chapter by
4 distributing any non-narcotic controlled substance listed in Schedule I or II as
5 per Appendices A and B of this Chapter or a substance listed in Schedules III,
6 IV, or V as per Appendices C-E of this Chapter, in or on a school, or within
7 the Drug Free School Zone as defined herein, shall be sentenced to serve, in
8 addition to the sentence prescribed by § 67.401.4 of this Chapter, a term of
9 three (3) years imprisonment. Imposition or execution of such sentence shall
10 not be suspended and probation shall not be granted. Parole or work release
11 shall not be granted until the offender has served the additional three (3) years
12 prescribed by this Subsection.

13 (d) Any person who is at least eighteen (18) years of age who is
14 found guilty of an offense pursuant to § 67.401.1 (a)(1) or (2) of this Chapter
15 by negligently, recklessly, knowingly or intentionally distributing a substance
16 listed in Schedule I or II as per Appendices A and B of this Chapter which is
17 a narcotic drug, to a person under eighteen (18) years of age, to a person
18 suffering from a mental illness, disease or defect, or to a pregnant person shall
19 be sentenced to serve, in addition to the sentence prescribed by § 67.401.4, a
20 term of twenty (20) years imprisonment. Imposition or execution of such
21 sentence shall not be suspended, and probation shall not be granted. Parole or
22 work release shall not be granted until the offender has served the additional
23 twenty (20) year sentence prescribed by this Subsection.

24 (e) Any person who is at least eighteen (18) years of age who is
25 found guilty of an offense pursuant to § 67.401.1 (a)(1) or (2) of this Chapter
26 by negligently, recklessly, knowingly or intentionally distributing a substance
27 listed in Schedule I or II as per Appendices A and B of this Chapter which is

1 a narcotic drug, to a person under eighteen (18) years of age, to a person
2 suffering from a mental illness, disease or defect, or to a pregnant person shall
3 be sentenced to serve, and in which a death or bodily injury occurs which
4 creates serious permanent disfigurement or a substantial risk of death or
5 serious, permanent disfigurement or severe or intense physical pain or
6 protracted loss or impairment of consciousness or of the function of any bodily
7 member or organ shall be sentenced to serve, in addition to the sentence
8 prescribed by § 67.401.4, a term of imprisonment for life.

9 (e) (f) It is not a defense to a violation of Subsections (a) and (b) that
10 the accused did not know the age of an individual to whom a controlled
11 substance was distributed.

12 (f) (g) It is not a defense to a violation of Subsections (c) or (d) that the
13 accused did not know the distance involved.