

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 986

S.P. 405

In Senate, March 2, 2023

An Act to Ensure Safer Communities by Increasing the Punishment for Crimes Involving Fentanyl

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator FARRIN of Somerset.
Cosponsored by Representative NEWMAN of Belgrade and
Senator: HARRINGTON of York, Representatives: ARDELL of Monticello, WHITE of
Waterville.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §1103, sub-§1-A**, as enacted by PL 2001, c. 383, §115 and
3 affected by §156, is amended to read:

4 **1-A.** Except as provided in subsection 1-B, a person is guilty of unlawful trafficking
5 in a scheduled drug if the person intentionally or knowingly trafficks in what the person
6 knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug
7 is:

8 A. ~~A~~ Except as provided in paragraph I, a schedule W drug. Violation of this paragraph
9 is a Class B crime;

10 B. A schedule X drug. Violation of this paragraph is a Class C crime;

11 C. Marijuana in a quantity of 20 pounds or more. Violation of this paragraph is a Class
12 B crime;

13 D. Marijuana and the person grows or cultivates 500 or more plants. Violation of this
14 paragraph is a Class B crime;

15 E. Marijuana in a quantity of more than one pound. Violation of this paragraph is a
16 Class C crime;

17 F. Marijuana and the person grows or cultivates 100 or more plants. Violation of this
18 paragraph is a Class C crime;

19 G. A schedule Y drug. Violation of this paragraph is a Class D crime; ~~or~~

20 H. A schedule Z drug. Violation of this paragraph is a Class D crime;

21 I. A schedule W drug and the scheduled drug is W-18; W-15; carfentanil; sufentanil;
22 fentanyl powder; and any derivative of fentanyl powder by any substitution on or
23 replacement of the phenethyl group, any substitution on the piperidine ring, any
24 substitution on or replacement of the propanamide group, any substitution on the
25 phenyl group or any combination thereof, including, but not limited to, despropionyl
26 fentanyl, furanylfentanyl, fluorofentanyl, 4-fluoroisobutyryl fentanyl, acetylfentanyl
27 and any methyلفentanyl derivatives. Violation of this paragraph is a Class A crime; or

28 J. A scheduled drug described in paragraphs B to H and the scheduled drug contains a
29 detectable quantity of W-18; W-15; carfentanil; sufentanil; fentanyl powder; and any
30 derivative of fentanyl powder by any substitution on or replacement of the phenethyl
31 group, any substitution on the piperidine ring, any substitution on or replacement of
32 the propanamide group, any substitution on the phenyl group or any combination
33 thereof, including, but not limited to, despropionyl fentanyl, furanylfentanyl,
34 fluorofentanyl, 4-fluoroisobutyryl fentanyl, acetylfentanyl and any methyلفentanyl
35 derivatives. Violation of this paragraph is a Class A crime.

36 **Sec. 2. 17-A MRSA §1103-A** is enacted to read:

37 **§1103-A. Unlawful use of electronic communication device in furtherance of fentanyl**
38 **trafficking**

39 **1.** A person is guilty of unlawful use of an electronic communication device in
40 furtherance of fentanyl trafficking if that person intentionally or knowingly uses an
41 electronic communication device in the furtherance of trafficking in a scheduled drug under

1 section 1103, subsection 1-A, paragraph I or J. Violation of this subsection is a Class B
2 crime.

3 2. As used in this section, "electronic communication device" means an electronic
4 device, including, but not limited to, a telephone, wireless telephone, personal digital
5 assistant or a portable or mobile computer. "Electronic communication device" includes
6 landline telephones.

7 **SUMMARY**

8 This bill amends the Maine Criminal Code as follows:

9 1. It increases the penalty for trafficking fentanyl and other scheduled drugs containing
10 a detectable amount of fentanyl from a Class B crime to a Class A crime; and

11 2. It establishes a new Class B crime of unlawful use of an electronic communication
12 device in furtherance of fentanyl trafficking. A person is guilty of the crime if the person
13 uses an electronic communication device in the furtherance of trafficking in fentanyl or
14 other scheduled drugs containing a detectable amount of fentanyl.