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SENATE BILL 6

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2024**

INTRODUCED BY

Crystal R. Brantley and Steven McCutcheon II

AN ACT

RELATING TO CRIME; MAKING THE DISTRIBUTION OF FENTANYL  
RESULTING IN DEATH A CAPITAL FELONY; PRESCRIBING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Controlled Substances Act  
is enacted to read:

"[NEW MATERIAL] DISTRIBUTION OF FENTANYL RESULTING IN  
DEATH.--

A. Distribution of fentanyl resulting in death is  
the intentional and unlawful distribution of any amount of  
fentanyl or a fentanyl-related substance to another person that  
results in the death of that person by cause of injecting,  
inhaling, absorbing or ingesting the fentanyl or fentanyl-  
related substance. Whoever commits distribution of fentanyl  
resulting in death is guilty of a capital felony and shall be

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underscored material = new  
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1 sentenced pursuant to the provisions of Section 31-18-14 NMSA  
2 1978.

3 B. In any prosecution for distribution of fentanyl  
4 resulting in death, it is no defense that the deceased  
5 purposefully, knowingly, recklessly or negligently injected,  
6 inhaled, absorbed or ingested any amount of fentanyl or  
7 fentanyl-related substance.

8 C. For the purposes of this section, "fentanyl-  
9 related substance" means any substance not otherwise assigned a  
10 number pursuant to the federal Controlled Substances Act and  
11 for which no exemption or approval is in effect under Section  
12 505 of the Federal Food, Drug, and Cosmetic Act that is  
13 structurally related to fentanyl by one or more of the  
14 following modifications:

15 (1) replacement of the phenyl portion of the  
16 phenethyl group by any monocycle, whether or not further  
17 substituted in or on the monocycle;

18 (2) substitution in or on the phenethyl group  
19 with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino  
20 or nitro groups;

21 (3) substitution in or on the piperidine ring  
22 with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo,  
23 haloalkyl, amino or nitro groups;

24 (4) replacement of the aniline ring with any  
25 aromatic monocycle whether or not further substituted in or on

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underscored material = new  
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1 the aromatic monocycle; or  
2 (5) replacement of the N-propionyl group by  
3 another acyl group."

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