



## 2025 South Dakota Legislature

# House Bill 1230

Introduced by: **Representative Hughes**

1 **An Act to revise provisions related to, and establish the crime of, unauthorized**  
 2 **distribution of fentanyl and provide a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 22-42-2.4 be AMENDED:**

5 **22-42-2.4.** Notwithstanding—~~subdivision~~ § 22-3-8(1), the punishment for  
 6 conspiracy to commit a violation of § 22-42-2 is the same as the punishment for violating  
 7 § 22-42-2, and the punishment for conspiracy to commit a violation of section 2 of this  
 8 Act is the same as the punishment for violating section 2 of this Act.

9 **Section 2. That a NEW SECTION be added to chapter 22-42:**

10 Notwithstanding § 22-42-2, unauthorized distribution of, or possession with the  
 11 intent to distribute, four milligrams or more of fentanyl, is a Class 2 felony. Unless waived  
 12 by the prosecutor, the court shall impose the following penalties based on the amount of  
 13 fentanyl distributed or possessed:

14 (1) For four milligrams but fewer than fourteen milligrams of fentanyl, at least three  
 15 years imprisonment, which sentence may not be suspended, and a mandatory fine  
 16 of fifty thousand dollars;

17 (2) For fourteen milligrams but fewer than twenty-eight milligrams of fentanyl, at least  
 18 fifteen years imprisonment, which sentence may not be suspended, and a  
 19 mandatory fine of one hundred thousand dollars; and

20 (3) For twenty-eight milligrams or more of fentanyl, at least twenty-five years  
 21 imprisonment, which sentence may not be suspended, and a mandatory fine of five  
 22 hundred thousand dollars.

23 **Section 3. That § 22-42-19 be AMENDED:**

1           **22-42-19.** Any person who commits a violation of § 22-42-2, section 2 of this Act,  
2           22-42-3, or 22-42-4, or a felony violation of § 22-42-7, is guilty of a Class 4 felony, if  
3           ~~such the~~ activity ~~has taken~~ took place:

- 4           (1) In, on, or within one thousand feet of real property comprising a public or private  
5           elementary or secondary school or a playground; or  
6           (2) In, on, or within five hundred feet of real property comprising a public or private  
7           youth center, public swimming pool, or video arcade facility; ~~is guilty of a Class 4~~  
8           ~~felony.~~

9           ~~The sentence imposed for a~~ A conviction under this section ~~carries a minimum~~ must  
10          be punished by a sentence of imprisonment at least five years in a state correctional  
11          ~~facility of five years.~~ Any sentence imposed under this section ~~shall~~ must be consecutive  
12          to any other sentence imposed for the principal felony. The court may not place on  
13          probation, suspend the execution of the sentence, or suspend the imposition of the  
14          sentence of any person convicted of a violation of this section. ~~However, the~~ The  
15          sentencing court may impose a sentence other than that specified in this section if the  
16          court finds ~~that~~ mitigating circumstances ~~exist which~~ that require a departure from the  
17          mandatory sentence provided for in this section. The court's finding of mitigating  
18          circumstances allowed by this section and the factual basis relied upon by the court ~~shall~~  
19          must be in writing.

20                 It is not a defense to the provisions of this section that the defendant did not know  
21                 the distance involved. It is not a defense to the provisions of this section that school was  
22                 not in session.