



**ARIZONA STATE SENATE**  
*Fifty-Sixth Legislature, First Regular Session*

**VETOED**

**AMENDED**

FACT SHEET FOR H.B. 2469

~~fenfanyl; border; public health crisis~~  
(NOW: sovereign authority; border; health crisis)

Purpose

Declares that the trafficking of fentanyl across the Arizona border is a public health crisis and that the Department of Health Services (DHS) must do everything within its authority to address this crisis. Declares that it is Arizona's public policy to protect the state from drug cartels that threaten the public safety, health or general welfare of the people. Requires Arizona law to be interpreted and construed to protect state's sovereign authority against unlawful invasion at the Arizona-Mexico border.

Background

In June 2017, Governor Doug Ducey declared a statewide emergency to address opioid overdoses and deaths following the release of data that showed a 74 percent increase in opioid overdoses since 2013. The declaration was followed by an executive order mandating real-time reporting of opioid overdoses. In 2018, Governor Ducey called for a Special Session of the Legislature dedicated to addressing the statewide opioid epidemic and ultimately signed S.B. 1001, which enacted a series of statutory and session law changes related to the prescribing, administering, dispensing and use of opioid drugs ([Arizona Opioid Epidemic Act](#) and [Laws 2018, 1SS, Ch. 1](#)).

The U.S. Constitution prohibits any state, without the consent of the U.S. Congress or unless actually invaded or in imminent danger, from: 1) laying any duty of tonnage; 2) keeping troops or ships in peace time; 3) entering into any agreement or compact with another state or foreign power; or 4) engaging in war. The U.S. Government must guarantee to protect every state from invasion and domestic violence (U.S. Const. [art. 1 § 10](#) and [art. 4 § 4](#)).

The Arizona Constitution allows the state to protect the people's freedom and preserve the checks and balances of the U.S. Constitution by exercising its sovereign authority to restrict the actions of its personnel and the use of its financial resources to purposes that are consistent with the Arizona Constitution by: 1) passing an initiative or referendum; 2) passing a bill; and 3) pursuing any other available legal remedy ([Ariz. Const. art. 2 § 3](#)).

Fentanyl is a powerful lab-made opioid that is approved by the U.S. Food and Drug Administration to treat severe pain. Illegally made and distributed fentanyl, and other illegally made synthetic opioids, have been increasingly found in the drug supply, contributing to a dramatic rise in drug overdose deaths in the United States. People both knowingly consume fentanyl and other

synthetic opioids and unknowingly consume them when they are mixed into or sold as other drugs, such as heroin, cocaine, or counterfeit pills. Because fentanyl is about 50 to 100 times more potent than morphine, and a lethal dose can be very small, using a drug that has been contaminated with or replaced by fentanyl can greatly increase one's risk of overdose ([National Institute on Drug Abuse](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

### Provisions

1. Declares that the trafficking of fentanyl across the Arizona border is a public health crisis and requires DHS to do everything within its authority to address the fentanyl crisis.
2. States that the Legislature declares that it is Arizona's public policy to protect the state from drug cartels that threaten the public safety, health or general welfare of the people.
3. Declares that the federal government's failure to secure the Arizona border from an unlawful invasion is dangerous and unprecedented.
4. Declares that overdose deaths involving synthetic opioids are primarily driven by illicitly manufactured fentanyl.
5. Requires Arizona law to be interpreted and construed to protect the state's sovereign authority against any unlawful invasion at the Arizona-Mexico border.
6. Defines *drug cartel* as an ongoing formal or informal association of persons in which members or associates individually or collectively engage in:
  - a) unlawful human smuggling;
  - b) trafficking of fentanyl or any other lethal drug for profit; or
  - c) any outlined act of terrorism.
7. Defines *unlawful invasion* as illicit activities of a drug cartel.
8. Becomes effective on the general effective date.

### Amendments Adopted by Committee

1. Declares that it is Arizona's public policy to protect the state from drug cartels that threaten the public safety, health or general welfare of the people.
2. Declares that the federal government's failure to secure the Arizona border from an unlawful invasion is dangerous and unprecedented.
3. Declares that overdose deaths involving synthetic opioids are primarily driven by illicitly manufactured fentanyl.
4. Requires Arizona law to be interpreted and construed to protect the state's sovereign authority against any unlawful invasion.
5. Defines *drug cartel* and *unlawful invasion*.

6. Makes technical changes.

Governor's Veto Message

The Governor indicates in her [veto message](#) that H.B. 2469 does not acknowledge the chronic underfunding of DHS or other governmental services, nor does it address any of the governmental duties necessary to ensure the safety of Arizona communities, including maximizing harm reduction efforts, ensuring people have access to affordable, high-quality health care, combating stigmatization of mental and behavioral health conditions, breaking down barriers to accessing opioid antagonists or investing in a robust and sustainable public health infrastructure.

House Action

HHS	2/13/23	DPA/SE	6-3-0-0
3 <sup>rd</sup> Read	3/1/23		31-28-1
Final Read	5/15/23		31-27-1-0-1

Senate Action

HHS	3/28/23	DPA	5-2-0
3 <sup>rd</sup> Read	4/12/23		16-14-0

Vetoed by the Governor 5/19/23

Prepared by Senate Research

May 22, 2023

MM/JM/slp