

[325.953] EXPRESS WARRANTIES. Subdivision 1. DISCLAIMERS. No express warranty arising out of a consumer sale of new goods shall disclaim implied warranties of merchantability, or, where applicable, of fitness.

Subd. 2. HONORING OF EXPRESS WARRANTIES. The maker of an express warranty arising out of a consumer sale in this state shall honor the terms of the express warranty. In a consumer sale, the manufacturer shall honor an express warranty made by the manufacturer; the distributor shall honor an express warranty made by the distributor; and the retail seller shall honor an express warranty made by the retail seller.

Subd. 3. LIABILITY OF MANUFACTURER TO RETAILER. Every manufacturer who makes an express warranty pursuant to a consumer sale, who authorizes a retail seller within this state to perform services or repairs under the terms of the express warranty shall be liable to the retail seller in an amount equal to that which is charged by the retail seller for like service or repairs rendered to retail consumers who are not entitled to warranty protection.

Sec. 4. Minnesota Statutes 1971, Chapter 325, is amended by adding a section to read:

[325.954] REMEDIES. A violation of this act shall be treated as a violation of Minnesota Statutes, Section 325.79. The remedies provided by this act are cumulative and shall not be construed as restricting any remedy that is otherwise available.

Sec. 5. This act shall be effective as to all consumer sales made on or after November 1, 1973.

Approved May 24, 1973.

CHAPTER 693—S.F.No.464

[Coded in Part]

An act relating to controlled substances; defining terms; scheduling substances and establishing rescheduling procedures; rights to prescribe and possess; penalties and forfeitures for illegal possession, sale, manufacture or distribution of prohibited drugs; amending Minnesota Statutes 1971, Sections 152.01, by adding a subdivision; 152.02, Subdivisions 11, 12, and 13; 152.09, Subdivision 2; 152.101, Subdivision 2; 152.11; 152.12, Subdivisions 1 and 4; 152.15,

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Subdivisions 1, 2, 4, and 5; 152.18, Subdivision 1; 152.19, Subdivisions 1, 3, 5, and 7; and 153.01, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 152.01, is amended by adding a subdivision to read:

Subd. 17. CONTROLLED SUBSTANCES; REGULATION; APPROPRIATE STATE AGENCY. “Appropriate agency” means either the bureau of criminal apprehension, the state board of pharmacy, state highway patrol, county sheriffs and their deputies, or city police departments in municipalities containing 25,000 or more inhabitants.

Sec. 2. Minnesota Statutes 1971, Section 152.02, Subdivision 11, is amended to read:

Subd. 11. The state board of pharmacy shall appoint an advisory council on controlled substances consisting of not more than ~~12~~ 13 members, who shall serve without compensation, to advise it in the administration of this chapter.

Commencing July 1, 1973, six members shall be appointed for a one year term and seven members shall be appointed for a two year term. Thereafter, members shall be appointed for two year terms. Four of the members of the council shall be physicians as designated by the state board of medical examiners. One of the members of the council shall be a pharmacologist, one of the members of the council shall be a pharmacist, and the remainder shall be from among the following: correction or law enforcement officers, judges, representatives of drug treatment or counseling facilities, former drug abusers, education, and students. The members of the council shall select a chairman from among their membership, who may call meetings of the council when deemed appropriate, and shall call meetings of the council when requested to do so by any four members of the council.

Sec. 3. Minnesota Statutes 1971, Section 152.02, Subdivision 12, is amended to read:

Subd. 12. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the state board of pharmacy, the state board of pharmacy shall similarly control the substance under this act after the expiration of 30 days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance. Such order shall be filed pursuant to Minnesota Statutes, Section 15.0413. If within that 30 day period, the state board of pharmacy objects to inclusion, rescheduling, or deletion, it shall publish the reasons for objection

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and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the state board of pharmacy shall publish its decision, which shall be subject to the provisions of Minnesota Statutes 1971, Chapter 15.

In exercising the authority granted by Laws 1971, Chapter 937, the state board of pharmacy shall be subject to the provisions of Minnesota Statutes 1969, Chapter 15. The state board of pharmacy shall provide copies of any proposed rule under Laws 1971, Chapter 937, to the advisory council on controlled substances at least 30 days prior to any hearing required by Minnesota Statutes 1969, Section 15.0412, Subdivision 4. The state board of pharmacy shall consider the recommendations of the advisory council on controlled substances, which may be made prior to or at the hearing.

Sec. 4. Minnesota Statutes 1971, Section 152.02, Subdivision 13, is amended to read:

Subd. 13. The state board of pharmacy and the advisory council on controlled substances shall study the implementation of Laws 1971, Chapter 937 in relation to the problems of drug abuse in Minnesota and shall report to the legislature annually on or before December 1, ~~1972~~, their recommendations concerning amendments to Laws 1971, Chapter 937.

Sec. 5. Minnesota Statutes 1971, Section 152.09, Subdivision 2, is amended to read:

Subd. 2. It shall be unlawful for any person to procure, attempt to procure, possess or have in his control a controlled substance by any of the following means:

- (1) fraud, deceit, misrepresentation or subterfuge;
- (2) using a false name or giving false credit;

(3) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

Sec. 6. Minnesota Statutes 1971, Section 152.101, Subdivision 2, is amended to read:

Subd. 2. This section shall not apply to a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, a licensed doctor of dentistry, a licensed doctor of podiatry, or licensed doctor of veterinary medicine in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drugs to his patients for which the patients are

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charged, either separately or together with charges for other professional services.

Sec. 7. Minnesota Statutes 1971, Section 152.11, is amended to read:

152.11 WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES. Subdivision 1. No person may dispense a controlled substance included in Schedule II of section 152.02 without a prescription written by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully practicing his profession in this state. Provided that in emergency situations, as authorized by federal law, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist. Such prescriptions shall be retained in conformity with section 152.101. No prescription for a Schedule II substance may be refilled.

For the purposes of Laws 1971, Chapter 937, a written prescription or oral prescription, which shall be reduced to writing, for a controlled substance in Schedules II, III, IV or V is void unless (1) it is written in ink and contains the name and address of the person for whose use it is intended; (2) it states the amount of the controlled substance to be compounded or dispensed, with directions for its use; (3) if a written prescription, it contains the signature, address and federal registry number of the prescriber and a designation of the branch of the healing art pursued by the prescriber; and if an oral prescription, the name and address of the prescriber and a designation of his branch of the healing art; and (4) it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription. Every licensed pharmacist who compounds any such prescription shall retain such prescription in a file for a period of not less than two years, open to inspection by any officer of the state, county, or municipal government, whose duty it is to aid and assist with the enforcement of this chapter. Every such pharmacist shall distinctly label the container with the directions contained in the prescription for the use thereof.

Subd. 2. No person may dispense a controlled substance included in Schedules III or IV of section 152.02 without a written or oral prescription from a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully practicing his profession in this state. Such prescription may not be dispensed or refilled except with the written or verbal consent of the prescriber, and in no event more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times.

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Sec. 8. Minnesota Statutes 1971, Section 152.12, Subdivision 1, is amended to read:

152.12 DOCTORS MAY PRESCRIBE. Subdivision 1. A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, a doctor of dental surgery, or a doctor of dental medicine, or a licensed doctor of podiatry, and in the course of his professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, or he may cause the same to be administered by a nurse, an intern or an assistant under his direction and supervision.

Sec. 9. Minnesota Statutes 1971, Section 152.12, Subdivision 4, is amended to read:

Subd. 4. Nothing in this chapter shall prohibit the sale to, or the possession of, a controlled substance in Schedules II, III, IV or V by: Registered drug wholesalers, registered manufacturers, registered pharmacies, or any licensed hospital or other licensed institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals wherein animals are treated; or by licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dental surgery, licensed doctors of dental medicine, licensed doctors of podiatry, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only.

Nothing in this chapter shall prohibit the possession of a controlled substance in Schedules II, III, IV or V by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of his employment, or by a patient of a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, or a licensed doctor of dental surgery, a licensed doctor of dental medicine, or by the owner of an animal for which a controlled substance has been prescribed by a licensed doctor of veterinary medicine, when such controlled substances are dispensed according to law.

Sec. 10. Minnesota Statutes 1971, Section 152.15, Subdivision 1, is amended to read:

152.15 VIOLATIONS; PENALTIES. Subdivision 1. Any person who violates section 152.09, subdivision 1, clause (1) with respect to:

(1) A controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than 15 years or fined not more than \$25,000, or both for a first violation, and for a second or subsequent

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violation, upon conviction, shall be imprisoned for not less than one year nor more than 30 years or fined not more than \$50,000, or both;

(2) Any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than \$15,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than ten years or fined not more than \$30,000, or both;

(3) A substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than \$10,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than six months nor more than six years or fined not more than \$20,000, or both;

(4) A substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$1,000, or both;

(5) The distribution of a small amount of marijuana for no remuneration, shall be treated as provided in subdivision 2, clause (4) (5).

Sec. 11. Minnesota Statutes 1971, Section 152.15, Subdivision 2, is amended to read:

Subd. 2. Any person who violates section 152.09, subdivision 1, clause (2), with respect to:

(1) A controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than five years or fined not more than \$5,000, or both;

(2) Any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than \$3,000, or both;

(3) A substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than \$3,000, or both;

(4) A substance classified in Schedule V, ~~or a small amount of marijuana~~ is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$1,000, or both; provided, however, that any person convicted under this section of possessing a substance classified under Schedule V or a small amount of marijuana, and placed on probation may be

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required to take part in a drug education program as specified by the court;

(5) A small amount of marijuana is guilty of a misdemeanor. A subsequent violation of this clause within one year is a misdemeanor, and a person so convicted may be required to participate in a medical evaluation. A person who is the owner of a private motor vehicle, or the driver of the motor vehicle if the owner is not present, and who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers more than .05 ounce of marijuana is guilty of a misdemeanor. This area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

Sec. 12. Minnesota Statutes 1971, Section 152.15, Subdivision 4, is amended to read:

Subd. 4. Any person 18 years of age or over who violates section 152.09, subdivision 1, clause (1), by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person under 18 years of age who is at least three years his junior is punishable by the fine authorized by section 152.15, subdivision 1, clause (1), by a term of imprisonment of up to twice that authorized by section 152.15, subdivision 1, clause (1), or by both. Any person 18 years of age or over who violates section 152.09, subdivision 1, by distributing any other controlled substance listed in Schedules I, II, III, IV, and V, except marijuana, to a person under 18 years of age who is at least three years his junior is punishable by the fine authorized by section 152.15, subdivision 1, clauses (2), (3), or (4), by a term of imprisonment up to twice that authorized by section 152.15, subdivision 1, clauses (2), (3), or (4), or both.

Sec. 13. Minnesota Statutes 1971, Section 152.15, Subdivision 5, is amended to read:

Subd. 5. Any person convicted of a second or subsequent offense under Laws 1971, Chapter 937, except as provided in subdivision 1, clauses (1), (2), ~~and (3)~~ and (5) may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

Sec. 14. Minnesota Statutes 1971, Section 152.18, Subdivision 1, is amended to read:

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152.18 DISCHARGE AND DISMISSAL. Subdivision 1. ~~If any person who has not previously been convicted of a violation of any law of this state or the United States relating to controlled substances is found guilty of a violation of section 152.09, subdivision 1, clause (2) after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment provided for such violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation.~~ Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal hereunder shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the department of public safety solely for the purpose of use by the courts in determining ~~whether or not, in the merits of subsequent proceedings, against~~ such person ~~qualifies hereunder.~~ The court shall forward a record of any discharge and dismissal hereunder to the department of public safety who shall make and maintain the nonpublic record thereof as hereinbefore provided. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose. ~~Discharge and dismissal hereunder may occur only once with respect to any person.~~

Sec. 15. Minnesota Statutes 1971, Section 152.19, Subdivision 1, is amended to read:

152.19 FORFEITURES. Subdivision 1. The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of chapter 152;

(2) All raw materials, moneys, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of chapter 152;

(3) All property which is used, or intended for use, as a primary container for property described in clauses (1) or (2);

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(4) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in clauses (1) or (2) having a retail value of \$100 or more, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the owner or other person in charge of the conveyance is a consenting party or privy to a violation of chapter 152.

(b) No conveyance is subject to forfeiture under this section unless the owner thereof is privy to a violation of chapter 152, or that the use of the conveyance in such violation otherwise occurred with his knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party unless he had knowledge of or consented to the act or omission upon which the forfeiture is based.

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of chapter 152.

Sec. 16. Minnesota Statutes 1971, Section 152.19, Subdivision 3, is amended to read:

Subd. 3. In the event of seizure pursuant to subdivision 2, proceedings under subdivision 4 shall be instituted promptly. In the event of a conviction for a gross misdemeanor or a misdemeanor, any conveyance seized pursuant to subdivision 1, clause (4) of this section or any moneys seized pursuant to subdivision 1, clause (2) of this section, shall be returned to the person legally entitled thereto.

Sec. 17. Minnesota Statutes 1971, Section 152.19, Subdivision 5, is amended to read:

~~Subd. 5. When property is forfeited under Laws 1971, Chapter 937, the appropriate state agency may:~~

~~(1) Retain it for official use;~~

~~(2) If otherwise authorized, sell that which is not required to be destroyed by law and which is not harmful to the public;~~

~~(3) Require the commissioner of administration to take custody of the property and remove it for disposition in accordance with law; or~~

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~~(4) Forward it to the federal bureau of narcotics and dangerous drugs.~~

Property shall be forfeited after a conviction deemed to be a felony according to the following procedure:

(1) A separate complaint shall be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use.

(2) If the person arrested is acquitted, the court shall dismiss the complaint against any property seized pursuant to the preceding subdivisions and order the property returned to the persons legally entitled to it.

(3) If after conviction the court finds that the property, or any part thereof, was used in any violation as specified in the complaint, it shall order that the property unlawfully used be sold, destroyed, or disposed of by the appropriate state agency in the following manner:

(a) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(b) Require the commissioner of administration to take custody of the property and remove it for disposition in accordance with law; or

(c) Forward it to the federal bureau of narcotics and dangerous drugs.

(4) Proceeds from the sale of forfeited property, after payment of seizure, storage, and sale expenses and satisfaction of valid liens against the property, shall be forwarded to the state drug abuse authority for distribution of half of the net proceeds among licensed hospitals and licensed drug treatment facilities of this state for the care and treatment of patients with drug related physical and psychological disorders, and licensed drug analysis centers. The remaining half of net proceeds shall be returned to the appropriate state agency.

Sec. 18. Minnesota Statutes 1971, Section 152.19, Subdivision 7, is amended to read:

Subd. 7. Species of plants from which controlled substances in Schedules I, and II ~~and VI~~ may be derived which have been planted or cultivated in violation of Laws 1971, Chapter 937, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

Sec. 19. Minnesota Statutes 1971, Section 153.01, Subdivision 2, is amended to read:

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Subd. 2. **PODIATRY.** The word "podiatry" is held to be the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand or foot. It shall include the fitting or recommending of appliances, devices, or shoes for the correction or relief of minor foot ailments, except the amputation of the foot, hand, toes, or fingers, or the use of anaesthetics other than local. It shall include the prescribing or administering of any drugs or medications necessary or helpful to the practice of podiatry as defined by this subdivision, provided, however, that licensed podiatrists shall be restricted in their prescribing or administering of any drugs or medications by the limitations imposed on the scope of practice of podiatry as defined in this chapter.

Approved May 24, 1973.

CHAPTER 694—S.F.No.485

An act relating to elections; regulating the location of polling places; requiring that they be accessible to physically disabled persons; amending Minnesota Statutes 1971, Sections 203.08; and 204.13, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1: Minnesota Statutes 1971, Section 203.08, is amended to read:

203.08 ELECTIONS; PHYSICALLY DISABLED PERSONS; POLLING PLACES DESIGNATED. Subdivision 1. The council of every municipality shall, by ordinance or resolution, designate the place of holding the election for each precinct; otherwise the election shall be held as near as may be to the place where the preceding election was held, subject to change before the opening of the polls as provided by law. In any village or in any city of the third or fourth class, having more than one precinct, the council of the municipality may, by ordinance or resolution, provide for the holding of all elections in the municipality in some building centrally located therein, and the voters of the municipality may vote at such place so designated, irrespective of whether the voting place is actually located in their precinct or not. At the place so designated there shall be provided separate statutory voting facilities for each precinct, and the voting shall otherwise be conducted in the same manner as though the voting places were located in the

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