

## CHAPTER 298—S.F.No. 456

*An act relating to controlled substances; defining "small amount" of marijuana when measured under the metric system; clarifying certain Schedule II controlled substances; defining amount of marijuana for possession in a motor vehicle when measured under the metric system; amending Minnesota Statutes 1986, sections 152.01, subdivision 16; 152.02, subdivision 3; and 152.15, subdivision 2.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 152.01, subdivision 16, is amended to read:

Subd. 16. **SMALL AMOUNT.** "Small amount" as applied to marijuana means ~~4.5 ounces avoirdupois~~ 42.5 grams or less. This provision shall not apply to the resinous form of marijuana.

Sec. 2. Minnesota Statutes 1986, section 152.02, subdivision 3, is amended to read:

Subd. 3. The following items are listed in Schedule II:

(1) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, including the following: raw opium, opium extracts, opium fluidextracts, powdered opium, granulated opium, tincture of opium, apomorphine, codeine, ethylmorphine, hydrocodone, hydromorphone, metopon, morphine, oxycodone, oxymorphone, thebaine.

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (a), except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, ~~and including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers.~~

(e) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these the substances referred to in clause (d), except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts,

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and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Dihydromorphinone; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane; Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine; Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) Methamphetamine, its salts, isomers, and salts of its isomers;
- (c) Phenmetrazine and its salts;
- (d) Methylphenidate.

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Methaqualone
- (b) Amobarbital
- (c) Secobarbital
- (d) Pentobarbital
- (e) Phencyclidine
- (f) Phencyclidine immediate precursors:
  - (i) 1-phenylcyclohexylamine
  - (ii) 1-piperidinocyclohexanecarbonitrile.

Sec. 3. Minnesota Statutes 1986, section 152.15, subdivision 2, is amended to read:

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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 \$10,000, or both;

(2) Any other controlled substance classified in schedule I, II, or III, except small amounts of marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than \$5,000, 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 \$5,000, 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 \$3,000, or both; provided, however, that any person convicted under this section of possessing a substance classified under Schedule V, and placed on probation may be required to take part in a drug education program as specified by the court;

(5) A small amount of marijuana is guilty of a petty misdemeanor punishable by a fine of up to \$100 and participation in a drug education program unless the court enters a written finding that such a program is inappropriate, said program being approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority. A subsequent violation of this clause within two years is a misdemeanor, and a person so convicted shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation. Upon a first conviction under this section the courts shall forward a report of said conviction to the department of public safety which shall make and maintain a private, nonpublic, record for a period not to exceed two years from the date of conviction. The private, nonpublic record shall be solely for use by the courts in determining the penalties which attach upon conviction under this section.

Additionally 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 the 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~~ 1.4 grams 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.

(6) In any case in which a defendant is convicted of a petty misdemeanor under the provisions of clause (5) and willfully and intentionally fails to comply with the sentence imposed, said defendant shall be guilty of a misdemeanor.

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(7) Compliance with the terms of any sentence imposed for violation of clause (5) before conviction under clause (6) shall be an absolute defense.

Approved May 28, 1987

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### CHAPTER 299—S.F.No. 593

*An act relating to human services; clarifying statutes relating to the preadmission screening program; clarifying chemical dependency consolidated fund administration procedures; amending Minnesota Statutes 1986, sections 246.51; 246.511; 254B.01, subdivision 5; 254B.02, subdivisions 1, 2, 3, and 5; 254B.03, subdivisions 1, 2, 3, 4, and 5; 254B.04; 254B.05; 254B.06, subdivision 1; 254B.08; 254B.09, subdivisions 3, 5, and 7; and 256B.091, subdivisions 2, 3, 4, 6, and 8; repealing Minnesota Statutes 1986, section 256.968.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 246.51, is amended to read:

#### 246.51 PAYMENT FOR CARE AND TREATMENT; DETERMINATION.

Subdivision 1. **PROCEDURES.** The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient is able to pay. If the patient is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient or relatives or both shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient or relatives, both, liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a regional treatment center after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, except for chemical dependency receipts, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Except for services provided under chapter 254B, responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Subd. 2. **RULES.** The commissioner shall adopt, pursuant to the administrative procedure act, rules establishing uniform standards for determination of patient liability and relative, guardian or conservator responsibility for care provided at state hospitals. The standards may differ for mental illness, chemical dependency, or mental retardation. The standards established in rules adopted under chapter 254B shall determine the amount of patient and relative responsibility when a portion of the patient's cost of care has been paid under chapter 254B. These rules shall have the force and effect of law.

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