

SESSION LAWS

of the

STATE OF MINNESOTA

ENACTED BY THE SEVENTY-SEVENTH LEGISLATURE

AT THE 1992 REGULAR SESSION

JANUARY 6 TO APRIL 16, 1992

CHAPTERS 1 TO 356 APPEAR IN LAWS OF MINNESOTA 1991

CHAPTER 357—S.F.No. 1597

VETOED

CHAPTER 358—S.F.No. 1596

VETOED

CHAPTER 359—S.F.No. 11

An act relating to crimes; controlled substances; increasing penalties for sale or possession of powder cocaine to be identical to the penalties for sale or possession of cocaine base; amending the definition of sale to include possession with intent to sell; amending Minnesota Statutes 1990, sections 152.01, subdivision 15a, and by adding a subdivision; 152.021, subdivision 2; 152.022, subdivision 2; 152.025, subdivision 2; Minnesota Statutes 1991 Supplement, sections 152.01, subdivision 20; 152.021, subdivision 1; 152.022, subdivision 1; and 152.023, subdivision 2.

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

Section 1. Minnesota Statutes 1990, section 152.01, is amended by adding a subdivision to read:

Subd. 3a. COCAINE. "Cocaine" means coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of those substances, except decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Sec. 2. Minnesota Statutes 1990, section 152.01, subdivision 15a, is amended to read:

Subd. 15a. **SELL.** "Sell" means:

(1) to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or

(2) to offer or agree to ~~do the same; or to manufacture~~ perform an act listed in clause (1); or

(3) to possess with intent to perform an act listed in clause (1).

Sec. 3. Minnesota Statutes 1991 Supplement, section 152.01, subdivision 20, is amended to read:

Subd. 20. **UNLAWFULLY.** "Unlawfully" means selling, or possessing; ~~or possessing with intent to sell~~ a controlled substance in a manner not authorized by law.

Sec. 4. Minnesota Statutes 1991 Supplement, section 152.021, subdivision 1, is amended to read:

Subdivision 1. **SALE CRIMES.** A person is guilty of controlled substance crime in the first degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing cocaine ~~base;~~

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug other than cocaine;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phenylcyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

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(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols, or one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone.

Sec. 5. Minnesota Statutes 1990, section 152.021, subdivision 2, is amended to read:

Subd. 2. **POSSESSION CRIMES.** A person is guilty of a controlled substance crime in the first degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing cocaine ~~base~~;

(2) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug other than cocaine;

(3) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 500 or more dosage units; or

(4) the person unlawfully possesses one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 6. Minnesota Statutes 1991 Supplement, section 152.022, subdivision 1, is amended to read:

Subdivision 1. **SALE CRIMES.** A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of three grams or more containing cocaine ~~base~~;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than cocaine;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols;

(5) the person unlawfully sells any amount of a schedule I or II narcotic

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drug to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(6) the person unlawfully sells any of the following in a school zone, a park zone, or a public housing zone:

(i) any amount of a schedule I or II narcotic drug;

(ii) one or more mixtures containing methamphetamine or amphetamine; or

(iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 7. Minnesota Statutes 1990, section 152.022, subdivision 2, is amended to read:

Subd. 2. **POSSESSION CRIMES.** A person is guilty of controlled substance crime in the second degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of six grams or more containing cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug other than cocaine;

(3) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 100 or more dosage units; or

(4) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 8. Minnesota Statutes 1991 Supplement, section 152.023, subdivision 2, is amended to read:

Subd. 2. **POSSESSION CRIMES.** A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than cocaine;

(3) ~~the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;~~

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units;

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~~(5)~~ (4) the person unlawfully possesses any amount of a schedule I or II narcotic drug in a school zone, a park zone, or a public housing zone;

~~(6)~~ (5) the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols; or

~~(7)~~ (6) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, or a public housing zone.

Sec. 9. Minnesota Statutes 1990, section 152.025, subdivision 2, is amended to read:

Subd. 2. **POSSESSION AND OTHER CRIMES.** A person is guilty of controlled substance crime in the fifth degree if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

~~(2) the person unlawfully possesses one or more mixtures containing marijuana or Tetrahydrocannabinols with the intent to sell it, except a small amount of marijuana for no remuneration; or~~

~~(3)~~ the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) 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. 10. **EFFECTIVE DATE.**

Sections 1 to 9 are effective the day following final enactment and apply to crimes committed on or after that date.

Presented to the governor January 16, 1992

Signed by the governor January 17, 1992, 1:51 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.