

CHAPTER 152

PROHIBITED DRUGS

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152.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Drug.** The term "drug" includes all medicines and preparations recognized in the United States pharmacopeia or national formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals.

Subd. 3. **Package.** The term "package" includes any phial, bottle, jar, demijohn, carton, bag, case, can, box, or barrel or any receptacle, vessel, or container of whatsoever material or nature which may be used by a manufacturer, producer, packer, or dealer for enclosing any drug, but shall not include any shipping container in which properly marked packages are contained.

Subd. 4. **Misbranded.** The term "misbranded" applies to all drugs, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any drug which is falsely branded or labeled as to the county, city and county, city, town, state, territory, District of Columbia, or foreign country in which it is manufactured or produced.

Subd. 5. **Barbital.** The word "barbital" means: barbital and any derivative thereof; diethylbarbituric acid; any alkyl, aryl, metallic or halogenated derivative of barbituric acid; veronal (barbitone); proponal; ipral; dial; neonal (soneryl); sandoptal; amytal; phenobarbital (luminal); phandorn; noctal; allonal (which contains allylisopropylbarbituric acid in combination with amidopyrine) medinal; any preparation, mixture or other substance containing any of the foregoing substances.

[1921 c. 190 ss. 2, 5, 7; 1939 c. 102 s. 2] (3899-2, 3899-5, 3899-7, 3906-12)

152.02 SALE OF COCAINE; RECORD. No person shall sell or give away any cocaine, hydrochlorate, or any salts or compound of cocaine, or preparation containing cocaine, except upon the written prescription of a physician or dentist, or veterinarian, licensed under the laws of this state. No prescription containing cocaine shall be filled more than once and each shall have written plainly upon it the name and address of the patient, or owner of animal, and be filed and preserved by the pharmacist, who shall not give a copy thereof to the patient or owner of animal. This section shall not be construed as to apply to sales at wholesale in original packages by any manufacturer or wholesale dealer to a retail druggist, licensed physician or dentist, or veterinarian, when such vendor shall have affixed to each receptacle containing any such drug a label in the English language specifically setting forth the proportion of cocaine contained therein.

[1905 c. 42; 1909 c. 85 s. 1] (5809)

152.03 MANUFACTURE OR SALE OF ADULTERATED, MISLABELED, OR MISBRANDED DRUGS PROHIBITED. The manufacture, production, preparation, compounding, packing, selling, offering for sale or keeping for sale within the state, of any drug which is adulterated, mislabeled, or misbranded, within the meaning of sections 152.01, 152.03 to 152.08, and 152.13, is hereby prohibited. Any person, firm,

company, or corporation who shall manufacture or produce, prepare or compound, pack or sell, offer for sale or keep for sale within the state, any such adulterated, mislabeled, or misbranded drug shall be guilty of a misdemeanor.

[1921 c. 190 s. 1] (3899-1)

152.04 STANDARDS OF PURITY OF DRUGS; REGULATIONS. The standard of purity of drugs shall be the United States pharmacopoeia or national formulary. The regulations and definitions adopted for the enforcement of the national food and drug act of June 30, 1906, and any amendments thereof, may be adopted by the state board of pharmacy, so far as applicable to the provisions of sections 152.01, 152.03 to 152.08, and 152.13, and the board may adopt such other rules and regulations as may be necessary for the enforcement of sections 152.01, 152.03 to 152.08, and 152.13.

[1921 c. 190 s. 3] (3899-3)

152.05 DRUGS ADULTERATED. Drugs shall be deemed adulterated, within the meaning of sections 152.01, 152.03 to 152.08, and 152.13, in any of the following cases:

(1) If, when a drug is sold under or by a name used in the United States pharmacopoeia or national formulary, it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States pharmacopoeia or national formulary official at the time; provided, that no drug defined in the United States pharmacopoeia or national formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the package thereof, although the standard may differ from that determined by the test laid down in the United States pharmacopoeia or national formulary.

(2) If the strength or purity fall below the professed standard or quality under which it is sold.

[1921 c. 190 s. 4] (3899-4)

152.06 DRUGS MISLABELED OR MISBRANDED. Drugs shall be deemed mislabeled or misbranded under the meaning of sections 152.01, 152.03 to 152.08, and 152.13 in any of the following cases:

(1) If it be an imitation of or offered for sale under the name of another drug;

(2) If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents placed in such package, or if the package, as offered for sale at retail or wholesale, fails to bear a statement on the label of the per cent by volume of alcohol, or the quantity of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative or preparation of any such substances contained therein, except when prescribed by a physician, dentist, or veterinarian duly licensed to practice under the laws of this state;

(3) If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article, or any of the ingredients or substances contained therein, which is false and fraudulent.

[1921 c. 190 s. 6] (3899-6)

152.07 SALE OR OFFER FOR SALE PRIMA FACIE EVIDENCE OF VIOLATION. The sale or offering for sale within this state of any adulterated, mislabeled, or misbranded drug by any manufacturer, producer, jobber, packer, or dealer in drugs, or broker, commission merchant, agent, employee, or servant of any such manufacturer, producer, jobber, packer, or dealer, shall be prima facie evidence of the violation of sections 152.01, 152.03 to 152.08, and 152.13.

[1921 c. 190 s. 8] (3899-8)

152.08 REFUSAL TO SELL SAMPLES PRIMA FACIE EVIDENCE OF VIOLATION. It shall be prima facie evidence of the violation of sections 152.01, 152.03 to 152.08, and 152.13 for any person to refuse to sell to any agent of the state board of pharmacy any sample of drug upon tender of the market price therefor, or to conceal any such drug from such officer, or to withhold from him information as to where such drug is kept or stored.

[1921 s. 190 s. 9] (3899-9)

152.09 BARBITAL, NECESSITY FOR PRESCRIPTION. It shall be unlawful for any person, firm, or corporation to have in his, or its, possession, or to sell, give away, barter, exchange, or distribute barbitol except (1) on a written prescription of a doctor of medicine, a doctor of dental surgery, or a doctor of veterinary

medicine, lawfully practicing his profession in this state; or (2) on an oral prescription of any of the practitioners named in (1) which is reduced promptly to writing and filed by the pharmacist within 48 hours.

[1939 c 102 s 1; 1955 c 185 s 1] (3906-11)

152.10 SALES TO BE BY LICENSED PHARMACISTS. No person other than a licensed pharmacist shall sell barbitol and then only as provided in sections 152.09 to 152.12.

[1939 c. 102 s. 3] (3906-13)

152.11 WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES. For the purposes of sections 152.09 to 152.12, a written or oral prescription for barbitol 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 barbitol to be compounded or dispensed, with directions for its use; (3) if a written prescription, it contains the signature and address 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 pharmacist if an oral prescription. Every licensed pharmacist who compounds any such prescription shall at that time mark it in ink so as to show that it has been compounded and the date thereof, and he shall retain such prescription in a separate 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 sections 152.09 to 152.12. No such written or oral prescription shall be refilled, except with the written or verbal consent of the prescriber; provided, that the date of such consent must be recorded, in ink or indelible pencil, upon the original prescription by the pharmacist who refills the prescription, together with the name of the pharmacist; and that in event of verbal consent, it must be direct from the prescriber to the pharmacist. Every such pharmacist shall distinctly label the container with the directions contained in the prescription for the use thereof and the following warning: "USE ONLY AS DIRECTED."

[1939 c 102 s 4; 1939 c 193 s 4; 1955 c 185 s 2] (3906-14)

152.12 DOCTORS MAY PRESCRIBE. A licensed doctor of medicine, or a licensed doctor of dentistry, and in the course of his professional practice only, may prescribe, administer, and dispense barbitol, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

A licensed doctor of veterinary medicine, in good faith, and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense barbitol, and he may cause the same to be administered by an assistant under his direction and supervision.

Nothing in sections 152.09 to 152.12 shall prohibit the sale to, or the possession of, barbitol by wholesale drug concerns, registered pharmacies, licensed pharmacists, licensed doctors of medicine, licensed doctors of dentistry, licensed doctors of veterinary medicine, or any bona fide hospital or other bona fide institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals wherein animals are treated.

[1939 c. 102 s. 5] (3906-15)

152.13 DUTIES OF STATE BOARD OF PHARMACY. It shall be the duty of the state board to enforce the provisions of sections 152.01, 152.03 to 152.08, and 152.13, and the power and authority of the board, as now defined by the laws of this state, are hereby extended so as to be commensurate with the duties hereby imposed.

[1921 c. 190 s. 10] (3899-10)

152.14 DUTY OF COUNTY ATTORNEY. Upon complaint being made of the violation of the provisions of sections 152.02 and 152.14 to 152.16, the county attorney of the county where the offense is alleged to have been committed shall prosecute such complaint and to that end is hereby authorized to examine the books of any manufacturer or wholesale dealer within the state for the purpose of tracing the sale of any of the articles mentioned in sections 152.02 and 152.14 to 152.16.

[1905 c. 42; 1909 c. 85 s. 3] (5811)

152.15 VIOLATIONS; PENALTIES. Subdivision 1. **Misdemeanors.** (1) Any person who shall violate any of the provisions of sections 152.01, 152.03 to 152.08, and 152.13 shall be guilty of a misdemeanor; and for each offense, upon conviction thereof, fined not to exceed \$50; and, upon conviction of any second or subsequent

offense, fined not to exceed \$100; and, upon each conviction, the person so convicted shall, in addition to the fine herein mentioned, pay all the cost of prosecution, including the expense incurred in examining and analyzing the article found to have been adulterated or misbranded; and all fines paid and collected for violations of sections 152.01, 152.03 to 152.08, and 152.13 shall be paid to the state board of pharmacy forthwith, the provisions of any statute, ordinance, or charter to the contrary notwithstanding. The fines so collected shall be kept in a separate fund by the board to be used in the enforcement of the provisions of sections 152.01, 152.03 to 152.08, and 152.13. The board may use, so far as it deems necessary, other moneys in its hands for this purpose.

(2) Any person who shall sell or give away any of the articles mentioned in section 152.02 in violation of sections 152.02 and 152.14 to 152.16, and any person who shall prescribe any of such articles to any one addicted to the habitual use of cocaine or any preparation or compound thereof in any form shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 nor more than 90 days; and, if the person so offending shall be a licensed physician, dentist, veterinarian, pharmacist, or assistant pharmacist, in addition to the penalty above described, such offender's license shall be revoked.

Subd. 2. Gross misdemeanor. Any person, firm, or corporation that violates any provision of sections 152.09 to 152.12 shall be guilty of a gross misdemeanor; and, upon conviction thereof, punished by a fine of not to exceed \$1,000, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

[1905 c. 42; 1909 c. 85 s. 2; 1921 c. 190 s. 11; 1939 c. 102 s. 6] (3899-11, 3906-16, 5810)

152.16 FINES, HOW DISPOSED OF. All fines collected under the provisions of sections 152.02 and 152.14 to 152.16 shall inure to the state board of pharmacy.

[1905 c. 42; 1909 c. 85 s. 4] (5812)

152.17 SALE OF PEYOTE ILLEGAL. No person shall use, sell, transport, or have in possession any peyote or preparation of peyote. The violation of this section shall be a misdemeanor.

[1933 c. 333 s. 1, 2] (10278-1, 10278-2)