CHAPTER 152

PROHIBITED DRUGS

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. **Depressant or stimulant.** The term "depressant or stimulant drug" means: any drug which contains any quantity of barbituric acid or any of the salts or derivatives of barbituric acid; any drug which contains any quantity of amphetamine or any of its optical isomers; any salt of amphetamine or any salt of an optical isomer of amphetamine; d-, dl-methamphetamine and their salts; chloral hydrate, ethchlorvynol, ethinamate, glutethimide, methyprylon, paraldehyde, dimethyltryptamine, d-lysergic acid diethylamide or any of its salts, mescaline and its salts, psilocybin, psilocibin, psilocyn, phenmetrazine and its salts, chloral betaine, chlorhexadol, petrichloral, sulfondiethylmethane, sulfonethylmethane, sulfonmethane, lysergic acid, and lysergic acid amide; or any other drug which contains a quantity of a substance designated by regulations promulgated by the board of pharmacy as having shown a potential for abuse and injurious to health because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

Subd. 6. **Pharmacist intern.** The term "pharmacist intern" means a natural person, a graduate of the college of pharmacy, university of Minnesota, or other pharmacy college, approved by the board, or a person satisfactorily progressing toward the degree in pharmacy required for licensure, registered by the state board of pharmacy, for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist or a qualified applicant, awaiting licensure.

Subd. 7. **Manufacturing.** "Manufacturing", in places other than a pharmacy, means and includes the production, quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

[1921 c 190 s 2, 5, 7; 1939 c 102 s 2; 1967 c 408 s 1, 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)

152.041 RULES AND REGULATIONS. The board of pharmacy is authorized to promulgate regulations to regulate and define drugs which contain a quantity of a substance having shown a potential for abuse and injurious to health because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect. All provisions of this chapter shall be applicable to the drugs so designated by such board.

[1967 c 408 s 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, canabis 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 c 190 s 9] (3899-9)

152.09 STIMULANT OR DEPRESSANT DRUGS, PRESCRIPTION. Subdivision 1. Except as otherwise provided in this chapter, it shall be unlawful for any person, firm, or corporation to have in his, or its, possession, except when such possession is for his own use and is authorized by law or to sell, give away, barter, exchange, or distribute a stimulant or depressant drug except (1) on a written prescription of a doctor of medicine, a doctor of osteopathy licensed to practice 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 above and which is reduced promptly to writing and filed within 48 hours.

Subd. 2. In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this section, possession of a stimulant or depressant drug except as authorized by law shall be sufficient evidence of violation from which guilt may be inferred.

[1939 c 102 s 1; 1955 c 185 s 1; 1967 c 408 s 4] (3906-11)

152.10 SALES, PERSONS ELIGIBLE. No person other than a licensed pharmacist, assistant pharmacist or pharmacist intern under the supervision of a pharmacist shall sell a stimulant or depressant drug and then only as provided in sections 152.09 to 152.12.

[1939 c 102 s 3; 1967 c 408 s 5] (3906-13)

152.101 MANUFACTURERS, RECORDS. Subdivision 1. Every person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of any depressant or stimulant drug shall, upon July 1, 1967, prepare a complete and accurate record of all stocks of each drug on hand and shall keep such record for three years. When additional depressant or stimulant drugs are designated after July 1, 1967, a similar record must be prepared upon the effective date of their designation. On and after July 1, 1967, every person manufacturing, compounding or processing any depressant or stimulant drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain, and keep for not less than three years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered or otherwise disposed of, and the date of such transaction. If these records have already been prepared in accordance with federal law, no additional records shall be required provided that all records prepared under federal law have been retained and are made available to the appropriate state agency upon request.

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, 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 a fee.

[*1967 c 408 s 6*]

152.11 WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES. Subdivision 1. For the purposes of sections 152.09 to 152.12, a written or oral prescription, which shall be reduced to writing, for a depressant or stimulant drug 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 depressant or stimulant drug 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 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 three 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. 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, upon the original prescription by the pharmacist who refills the prescription, together with the initials 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.

Subd. 2. No prescription for any depressant or stimulant drug may be filled or refilled more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times except that after obtaining proper authorization from the practitioner the prescription may be refilled in accordance with the previous limitations.

[*1939 c 102 s 4; 1939 c 193 s 4; 1955 c 185 s 2; 1967 c 408 s 7*] *(3906-14)*

152.12 DOCTORS MAY PRESCRIBE. Subdivision 1. A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, or a licensed doctor of dentistry, and in the course of his professional practice only, may prescribe, administer, and dispense a stimulant or depressant drug, or he may cause the same to be administered by a nurse or intern under his direction and supervision.

Subd. 2. 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 a stimulant or depressant drug, and he may cause the same to be administered by an assistant under his direction and supervision.

Subd. 3. Any qualified person may use stimulant or depressant drugs in the course of a bona fide research project but cannot administer or dispense such drugs to human beings unless such drugs are prescribed, dispensed and administered by a person lawfully authorized to do so.

Subd. 4. Nothing in sections 152.09 to 152.12 shall prohibit the sale to, or the possession of, a stimulant or depressant drug by registered drug wholesalers, registered manufacturers, registered pharmacies, licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dentistry, licensed doctors of veterinary medicine, 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.

Nothing in sections 152.09 to 152.12 shall prohibit the possession of a stimulant or depressant drug by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of his employment.

Subd. 5. It shall be unlawful for any person to procure, attempt to procure, possess or have in his control a stimulant or depressant by any of the following means:

(a) fraud, deceit, misrepresentation or subterfuge;

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

(c) 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, veterinarian, or other authorized person, for the purpose of obtaining a stimulant or depressant drug.

[1939 c 102 s 5; 1967 c 408 s 8] (3906-15)

152.13 DUTIES OF STATE BOARD OF PHARMACY. It shall be the duty of the state board to enforce the provisions of this chapter, 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; 1967 c 408 s 9] (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.

(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 doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, a licensed doctor of dentistry, a licensed doctor of veterinary medicine, or a licensed pharmacist or licensed 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; 1967 c 408 s 10] (3899-11, 3906-16, 5810)

152.16 [Repealed, 1967 c 408 s 11]

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)