

CHAPTER 152

PROHIBITED DRUGS

152.01 Definitions.
152.02 Schedules of controlled substances;
administration of chapter.

152.15 Violations; penalties.

152.01 DEFINITIONS.

[For text of subds 1 to 15, see M.S.1986]

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

[For text of subds 17 and 18, see M.S.1986]

History: 1987 c 298 s 1

152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER.

[For text of subds 1 and 2, see M.S.1986]

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, 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 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, 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: Alfentanil; 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.

[For text of subds 4 to 11, see M.S.1986]

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 Laws 1973, chapter 693, 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 section 14.38. If within that 30-day period, the state board of pharmacy objects to inclusion, rescheduling, or deletion, it shall publish the reasons for objection 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 section 14.14, subdivision 1. 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.

[For text of subd 13, see M.S.1986]

History: 1987 c 14 s 1; 1987 c 298 s 2; 1987 c 384 art 2 s 40

152.15 VIOLATIONS; PENALTIES.

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

(1) Any controlled substance classified in schedule I or II which is a narcotic drug, or phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is guilty of a crime and upon conviction may be imprisoned for not more than 20 years or fined not more than \$60,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than two years nor more than 30 years or fined not more than \$100,000, or both if:

- (i) the mixture contains three grams or more of cocaine base;
- (ii) the offender sells or distributes a total of ten grams or more of the controlled substance, regardless of purity, on one or more occasions within a 90-day period;
- (iii) the controlled substance is phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is packaged in dosage units, and equals ten or more dosage units;
- (iv) the controlled substance is a schedule I or II narcotic drug, is packaged in dosage units, and equals 50 or more dosage units;
- (v) the offender sells or distributes any quantity of the controlled substance to a person under the age of 18; or

(vi) the offender conspires with or employs a person under the age of 18 to sell or distribute any quantity of the controlled substance;

(2) Any other amount of any 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 \$40,000, 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 30 years or fined not more than \$50,000, or both;

(3) Any other controlled substance classified in schedule I, II, or III, is guilty of a crime and upon conviction may be sentenced as follows:

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than ten years or to payment of a fine of not more than \$30,000, or both; or

(ii) in all other cases, to imprisonment for not more than five years or to payment of a fine of not more than \$30,000, or both.

A person convicted under this clause a second or subsequent time shall be sentenced to imprisonment for not less than one year nor more than ten years or to payment of a fine of not more than \$45,000, or both;

(4) A substance classified in schedule IV, is guilty of a crime and upon conviction may be sentenced as follows:

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than six years or to payment of a fine of not more than \$20,000, or both; or

(ii) in all other cases, to imprisonment for not more than three years or to payment of a fine of not more than \$20,000, or both.

A person convicted under this clause a second or subsequent time shall be sentenced to imprisonment for not less than six months nor more than six years or to payment of a fine of not more than \$35,000, or both;

(5) A substance classified in schedule V, is guilty of a crime and upon conviction may be sentenced as follows:

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than two years or to payment of a fine of not more than \$3,000 or both; or

(ii) in all other cases, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both;

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

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.

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 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.

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

[For text of subds 2a to 3, see M.S.1986]

Subd. 4. [Repealed, 1987 c 330 s 4]

[For text of subds 4a and 5, see M.S.1986]

History: 1987 c 78 s 1; 1987 c 298 s 3; 1987 c 330 s 1