152.097 SIMULATED CONTROLLED SUBSTANCES.

Subdivision 1. **Prohibition.** It is unlawful for any person knowingly to manufacture, sell, transfer or deliver or attempt to sell, transfer or deliver a noncontrolled substance upon:

(1) the express representation that the noncontrolled substance is a narcotic or nonnarcotic controlled substance; or

(2) the express representation that the substance is of such nature or appearance that the recipient of the delivery will be able to sell, transfer or deliver the substance as a controlled substance; or

(3) under circumstances which would lead a reasonable person to believe that the substance was a controlled substance. Any of the following factors shall constitute relevant evidence:

(i) the noncontrolled substance was packaged in a manner normally used for the illegal delivery of controlled substances; or

(ii) the delivery or attempted delivery included an exchange of or demand for money or other valuable property as consideration for delivery of the noncontrolled substance, and the amount of the consideration was substantially in excess of the reasonable value of the noncontrolled substance; or

(iii) the physical appearance of the noncontrolled substance is substantially identical to a specified controlled substance.

Subd. 2. **No defense.** In any prosecution under this section, it is no defense that the accused believed the noncontrolled substance to actually be a controlled substance.

Subd. 3. **Exemption.** This section does not apply to the prescribing and dispensing of placebos by licensed practitioners and licensed pharmacists.

Subd. 4. **Penalty.** A person who violates this section may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $20,000, or both. Sentencing for a conviction for attempting to sell, transfer, or deliver a noncontrolled substance in violation of this section is governed by section 609.17, subdivision 4.

History: *1982 c 599 s 1; 1989 c 290 art 3 s 18*