

## SENATE BILL NO. 439

INTRODUCED BY GRIMES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO CRIMINAL POSSESSION OF  
5 DANGEROUS DRUGS; PROVIDING THAT ~~INGESTION~~ CONSUMPTION OF METHAMPHETAMINE BY ANY  
6 MEANS IS CRIMINAL POSSESSION OF A DANGEROUS DRUG; ~~INCREASING PENALTIES FOR~~  
7 ~~POSSESSION OF METHAMPHETAMINE~~; PROVIDING THAT THE PRODUCTION OR MANUFACTURE OF  
8 METHAMPHETAMINE ~~IN ANY KIND OF MOTOR VEHICLE~~ IS CRIMINAL POSSESSION WITH INTENT TO  
9 DISTRIBUTE; AMENDING SECTIONS 45-9-102 AND 45-9-103, MCA; AND PROVIDING AN IMMEDIATE  
10 EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 45-9-102, MCA, is amended to read:  
15 **"45-9-102. Criminal possession of dangerous drugs.** (1) A person commits the offense of criminal  
16 possession of dangerous drugs if the person knowingly possesses any dangerous drug, as defined in 50-32-101.  
17 If the drug is methamphetamine, possession also includes ~~ingestion~~ CONSUMPTION BY ANY MEANS.

18 (2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate  
19 weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of  
20 a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment  
21 in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended  
22 or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable  
23 by a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 1 year or in the state  
24 prison for a term not to exceed 3 years or both such fine and imprisonment.

25 (3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the  
26 first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500  
27 or by imprisonment in the county jail for not more than 6 months, or both.

28 (4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be  
29 imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more  
30 than \$50,000, except as provided in 46-18-222.

1 (5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in  
 2 subsection (2), (3), or OR (4), or (6) shall be imprisoned in the state prison for a term not to exceed 5 years or  
 3 be fined an amount not to exceed \$50,000, or both.

4 ~~—— (6) A person convicted of criminal possession of methamphetamine, including ingestion of~~  
 5 ~~methamphetamine, shall be imprisoned in the state prison for a term of not less than 5 years or more than 10~~  
 6 ~~years or be fined an amount not to exceed \$75,000, or both.~~

7 ~~(6)(7)(6)~~ A person convicted of a first violation under this section is presumed to be entitled to a deferred  
 8 imposition of sentence of imprisonment.

9 ~~(7)(8)(7)~~ Ultimate users and practitioners and agents under their supervision acting in the course of a  
 10 professional practice, as defined by 50-32-101, are exempt from this section."  
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12 **Section 2.** Section 45-9-103, MCA, is amended to read:

13 **"45-9-103. Criminal possession with intent to distribute.** (1) A person commits the offense of  
 14 criminal possession with intent to distribute if the person:

15 (a) possesses with intent to distribute any dangerous drug as defined in 50-32-101; or

16 (b) produces or manufactures methamphetamine in any kind of motor vehicle, as defined in 61-1-102.

17 (2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to  
 18 distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and  
 19 may be fined not more than \$50,000, except as provided in 46-18-222.

20 (3) A person convicted of criminal possession with intent to distribute not otherwise provided for in  
 21 subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount  
 22 not to exceed \$50,000, or both.

23 (4) Practitioners and agents under their supervision acting in the course of a professional practice as  
 24 defined by 50-32-101 are exempt from this section."  
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26 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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