

SENATE BILL NO. 439
INTRODUCED BY D. GRIMES

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

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

Section 1. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1) A person commits the offense of criminal possession of dangerous drugs if the person knowingly possesses any dangerous drug, as defined in 50-32-101. If the drug is methamphetamine, possession also includes ingestion.

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

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

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be 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 than \$50,000, except as provided in 46-18-222.

(5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (2), (3), ~~or (4)~~, or (6) shall be imprisoned in the state prison for a term not to exceed 5 years or be

fined an amount not to exceed \$50,000, or both.

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

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

~~(7)~~(8) Ultimate users and practitioners and agents under their supervision acting in the course of a professional practice, as defined by 50-32-101, are exempt from this section."

Section 2. Section 45-9-103, MCA, is amended to read:

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

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

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

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

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

(4) Practitioners and agents under their supervision acting in the course of a professional practice as defined by 50-32-101 are exempt from this section."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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