

FILED FEB 25 1988

SENATE FILE 2221
BY LIND and VANDE HOEF

(Formerly SSB 2151)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the penalties for possession and distribution
2 of controlled substances.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2221

1 Section 1. Section 204.401, subsection 1, paragraph a,
2 Code 1987, is amended to read as follows:

3 a. A substance classified in schedule I or II which is a
4 narcotic drug or cocaine, ~~is-guilty-of~~ commits a class "C"
5 felony and, if the person is eighteen years of age or older at
6 the time of the violation, shall serve a minimum term of
7 confinement of five years.

8 Sec. 2. Section 204.401, subsection 3, Code 1985, is
9 amended to read as follows:

10 3. It is unlawful for any a person knowingly or
11 intentionally to possess a controlled substance unless such
12 the substance was obtained directly from, or pursuant to, a
13 valid prescription or order of a practitioner while acting in
14 the course of the practitioner's professional practice, or
15 except as otherwise authorized by this chapter. Any A person
16 who violates this subsection is guilty of a serious
17 misdemeanor. If the controlled substance is marijuana and the
18 quantity by weight equals or exceeds one-half of an ounce, the
19 punishment shall be by imprisonment in the county jail for not
20 more than six months or by a fine of not more than one
21 thousand dollars, or by both such fine and imprisonment. If
22 the controlled substance is marijuana and the quantity by
23 weight is less than one-half of an ounce, the punishment shall
24 be as a simple misdemeanor. All or any part of a sentence
25 imposed pursuant to this section may be suspended and the
26 person placed upon probation upon such terms and conditions as
27 the court may impose including the active participation by
28 such the person in a drug treatment, rehabilitation or
29 education program approved by the court.

30 Weights referred to in this subsection are gross total
31 weights for all plant material in a sample. Any plant
32 material sample identified as marijuana is deemed to consist
33 of sixty percent usable marijuana as defined in section
34 204.101, subsection 17.

35 Sec. 3. Section 204.406, subsection 1, Code 1987, is

1 amended by striking the subsection and inserting the
2 following:

3 1. A person who is eighteen years of age or older who
4 violates section 204.401, subsection 1:

5 a. By distributing a substance listed in schedule I or II,
6 which is a narcotic or cocaine, to a person under eighteen
7 years of age commits a class "B" felony and shall serve a
8 minimum term of confinement of five years. However, if the
9 substance was distributed in or on, or within one thousand
10 feet of, the real property comprising a public or private
11 elementary or secondary school, the person shall serve a
12 minimum term of confinement of ten years.

13 b. By distributing any other controlled substance listed
14 in schedule I, II, or III to a person under eighteen years of
15 age who is at least three years younger than the violator
16 commits a class "C" felony.

17 c. By distributing a controlled substance listed in
18 schedule IV or V to a person under eighteen years of age who
19 is at least three years younger than the violator commits an
20 aggravated misdemeanor.

21 Sec. 4. Section 901.10, Code 1987, is amended to read as
22 follows:

23 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

24 A court sentencing a person for the person's first
25 conviction under section 204.401, 204.406, 204.413, or 902.7
26 may, at its discretion, sentence the person to a term less
27 than provided by the statute if mitigating circumstances exist
28 and those circumstances are stated specifically in the record.
29 However, the state may appeal the discretionary decision on
30 the grounds that the stated mitigating circumstances do not
31 warrant a reduction of the sentence.

32 Sec. 5. Section 902.7, Code 1987, is amended to read as
33 follows:

34 902.7 MINIMUM SENTENCE SENTENCES -- USE OF A FIREARM --
35 DISTRIBUTION OF NARCOTICS OR COCAINE.

1 1. At the trial of a person charged with participating in
2 a forcible felony, if the trier of fact finds beyond a
3 reasonable doubt that the person is guilty of a forcible
4 felony and that the person represented that the person was in
5 the immediate possession and control of a firearm, displayed a
6 firearm in a threatening manner, or was armed with a firearm
7 while participating in the forcible felony the convicted
8 person shall serve a minimum of five years of the sentence
9 imposed by law. A person sentenced pursuant to this section
10 shall not be eligible for parole until the person has served
11 the minimum sentence of confinement imposed by this section.

12 2. A person sentenced for a violation of section 204.401,
13 subsection 1, paragraph "a", or section 204.406, subsection 1,
14 paragraph "a", shall not be eligible for parole until the
15 person has served the minimum term of confinement prescribed.

16 Sec. 6. Section 903A.5, unnumbered paragraph 1, Code 1987,
17 is amended to read as follows:

18 An inmate shall not be discharged from the custody of the
19 director of the Iowa department of corrections until the
20 inmate has served the full term for which the inmate was
21 sentenced, less good conduct time earned and not forfeited,
22 unless the inmate is pardoned or otherwise legally released.
23 Good conduct time earned and not forfeited shall apply to
24 reduce a mandatory minimum sentence being served pursuant to
25 section 204.401, 204.406, 204.413, 902.7, 902.8, or 906.5. An
26 inmate shall be deemed to be serving the sentence from the day
27 on which the inmate is received into the institution.

28 However, if an inmate was confined to a county jail or other
29 correctional or mental facility at any time prior to
30 sentencing, or after sentencing but prior to the case having
31 been decided on appeal, because of failure to furnish bail or
32 because of being charged with a nonbailable offense, the
33 inmate shall be given credit for the days already served upon
34 the term of the sentence. The clerk of the district court of
35 the county from which the inmate was sentenced, shall certify

1 to the warden the number of days so served.

2 Sec. 7. Section 907.3, unnumbered paragraph 1, Code 1987,
3 is amended to read as follows:

4 Pursuant to section 901.5, the trial court may, upon a plea
5 of guilty, a verdict of guilty, or a special verdict upon
6 which a judgment of conviction may be rendered, exercise any
7 of the options contained in subsections 1 and 2 of this
8 section. However, this section ~~shall~~ does not apply to a
9 forcible felony or to a violation of section 204.401,
10 subsection 1, paragraph "a", or to a violation of section
11 204.406, subsection 1, paragraph "a".

12 EXPLANATION

13 This bill imposes a mandatory minimum sentence of five
14 years imprisonment for adults convicted of manufacturing,
15 selling, or distributing schedule I or II narcotic drugs or
16 cocaine, and a mandatory minimum sentence of ten years
17 imprisonment for an adult convicted of selling schedule I or
18 II narcotic drugs or cocaine to a minor within one thousand
19 feet of a school. The bill allows the court to sentence an
20 offender to less than the minimum term if there are mitigating
21 circumstances. Good conduct time earned and not forfeited
22 shall apply to reduce the mandatory minimum sentences. It
23 also bars deferred judgments, deferred sentences, and
24 suspended sentences for persons convicted of these offenses.

25 This bill provides that the knowing and intentional posses-
26 sion of less than one-half of an ounce of marijuana is
27 punishable as a simple misdemeanor (imprisonment not to exceed
28 thirty days, or a fine not to exceed one hundred dollars).

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SSB 2151
Judiciary
Now

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BY (PROPOSED GOVERNOR'S BILL)

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29 COMPANION TO LSB 4646XG

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