

FILED MAR 0 1 1989

Judiciary

DO PASS, 3-9-89 (p. 101)

House Judiciary

DO PASS, 4-6-89 (p. 146)

SENATE FILE

315

BY MANN

Passed Senate, Date 4-3-89 (p. 111) Passed House, Date _____
 Vote: Ayes 47 Nays 0 Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

34273325-1 An Act relating to the delivery of controlled substances, and
 2 providing a penalty.

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

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SF 315

3487- S.F. 315 H.F. _____

3448-
3416-

3325 amends all -

34871 Section 1. Section 204.406, Code 1989, is amended by add-
2 ing the following new subsection:

3 NEW SUBSECTION. 3. It is unlawful for a person to deliver
4 a controlled substance to another person in order to act with,
5 enter into a common scheme or design with, conspire with, or
6 recruit the other person for the purpose of delivering a
7 controlled substance to one or more persons under eighteen
8 years of age. A person who violates this subsection with
9 respect to a controlled substance classified in schedule I,
10 II, III, IV, or V is guilty of a class "D" felony.

EXPLANATION

12 This bill prohibits a person from acting or conspiring
13 with, entering into a common scheme with, or recruiting
14 another person for the purpose of delivering a controlled
15 substance to persons under eighteen years of age. Such
16 violations are punished as class "D" felonies.

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SENATE FILE 315

S-3325

1 Amend Senate File 315 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 204.401, Code 1989, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 204.401 PROHIBITED ACTS -- MANUFACTURERS --
8 POSSESSORS -- CONTROLLED SUBSTANCES -- COUNTERFEIT
9 SUBSTANCES -- SIMULATED CONTROLLED SUBSTANCES --
10 PENALTIES.

11 1. Except as authorized by this chapter, it is
12 unlawful for any person to manufacture, deliver, or
13 possess with the intent to manufacture or deliver, a
14 controlled substance, a counterfeit substance, or a
15 simulated controlled substance, or to act with, enter
16 into a common scheme or design with, or conspire with
17 one or more other persons to manufacture, deliver, or
18 possess with the intent to manufacture or deliver, a
19 controlled substance, a counterfeit substance, or a
20 simulated controlled substance.

21 a. Violation of this subsection, with respect to
22 the following controlled substances, counterfeit
23 substances, or simulated controlled substances is a
24 class "B" felony, and notwithstanding section 902.9,
25 subsection 1, shall be punished by confinement for no
26 more than fifty years and a fine of not less than ten
27 thousand dollars nor more than one million dollars:

28 (1) More than one kilogram of a mixture or
29 substance containing a detectable amount of heroin.

30 (2) More than five kilograms of a mixture or
31 substance containing a detectable amount of any of the
32 following:

33 (a) Coca leaves, except coca leaves and extracts
34 of coca leaves from which cocaine, ecgonine, and
35 derivatives of ecgonine or their salts have been
36 removed.

37 (b) Cocaine, its salts, optical and geometric
38 isomers, and salts of isomers.

39 (c) Ecgonine, its derivatives, their salts,
40 isomers, and salts of isomers.

41 (d) Any compound, mixture, or preparation which
42 contains any quantity of any of the substances
43 referred to in subparagraph subdivisions (a) through
44 (c).

45 (3) More than fifty grams of a mixture or
46 substance described in subparagraph 2 which contains
47 cocaine base.

48 (4) More than one hundred grams of phencyclidine
49 (PCP) or one kilogram or more of a mixture or
50 substance containing a detectable amount of

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1 phencyclidine (PCP).

2 (5) More than ten grams of a mixture or substance
3 containing a detectable amount of lysergic acid
4 diethylamide (LSD).

5 (6) More than one thousand kilograms of a mixture
6 or substance containing a detectable amount of
7 marijuana.

8 b. Violation of this subsection with respect to
9 the following controlled substances, counterfeit
10 substances, or simulated controlled substances is a
11 class "B" felony, and in addition to the provisions of
12 section 902.9, subsection 1, shall be punished by a
13 fine of not less than five thousand dollars nor more
14 than one hundred thousand dollars:

15 (1) More than one hundred grams but not more than
16 one kilogram of a mixture or substance containing a
17 detectable amount of heroin.

18 (2) More than five hundred grams but not more than
19 five kilograms of any of the following:

20 (a) Coca leaves, except coca leaves and extracts
21 of coca leaves from which cocaine, ecgonine, and
22 derivatives of ecgonine or their salts have been
23 removed.

24 (b) Cocaine, its salts, optical and geometric
25 isomers, and salts of isomers.

26 (c) Ecgonine, its derivatives, their salts,
27 isomers, and salts of isomers.

28 (d) Any compound, mixture, or preparation which
29 contains any quantity of any of the substances
30 referred to in subparagraph subdivisions (a) through
31 (c).

32 (3) More than five grams but not more than fifty
33 grams of a mixture or substance described in
34 subparagraph (2) which contains cocaine base.

35 (4) More than ten grams but not more than one
36 hundred grams of phencyclidine (PCP) or more than one
37 hundred grams but not more than one kilogram of a
38 mixture or substance containing a detectable amount of
39 phencyclidine (PCP).

40 (5) Not more than ten grams of lysergic acid
41 diethylamide (LSD).

42 (6) More than one hundred kilograms but not more
43 than one thousand kilograms of marijuana.

44 c. Violation of this subsection with respect to
45 the following controlled substances, counterfeit
46 substances, or simulated controlled substances is a
47 class "C" felony, and in addition to the provisions of
48 section 902.9, subsection 3, shall be punished by a
49 fine of not less than one thousand dollars nor more
50 than fifty thousand dollars:

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- 1 (1) One hundred grams or less of a mixture or
2 substance containing a detectable amount of heroin.
- 3 (2) Five hundred grams or less of any of the
4 following:
- 5 (a) Coca leaves, except coca leaves and extracts
6 of coca leaves from which cocaine, ecgonine, and
7 derivatives of ecgonine or their salts have been
8 removed.
- 9 (b) Cocaine, its salts, optical and geometric
10 isomers, and salts of isomers.
- 11 (c) Ecgonine, its derivatives, their salts,
12 isomers, and salts of isomers.
- 13 (d) Any compound, mixture, or preparation which
14 contains any quantity of any of the substances
15 referred to in subparagraph subdivisions (a) through
16 (c).
- 17 (3) Five grams or less of a mixture or substance
18 described in subparagraph (2) which contains cocaine
19 base.
- 20 (4) Ten grams or less of phencyclidine (PCP) or
21 one hundred grams or less of a mixture or substance
22 containing a detectable amount of phencyclidine (PCP).
- 23 (5) More than fifty kilograms but not more than
24 one hundred kilograms of marijuana.
- 25 (6) Any other controlled substance classified in
26 schedule I, II, or III.
- 27 d. Violations of this subsection, with respect to
28 any other controlled substances, counterfeit
29 substances, or simulated controlled substances
30 classified in schedule IV or V, or less than fifty
31 kilograms of marijuana, or any other amount of such
32 substances, is a class "D" felony, and in addition to
33 the provisions of section 902.9, subsection 4, shall
34 be punished by a fine of not less than one thousand
35 dollars nor more than five thousand dollars.
- 36 e. A person in the immediate possession or control
37 of a firearm while participating in a violation of
38 this subsection shall be sentenced to two times the
39 term otherwise imposed by law, and no such judgment,
40 sentence, or part thereof shall be deferred or
41 suspended.
- 42 f. A person in the immediate possession or control
43 of an offensive weapon, as defined in section 724.1,
44 while participating in a violation of this subsection,
45 shall be sentenced to three times the term otherwise
46 imposed by law, and no such judgment, sentence, or
47 part thereof shall be deferred or suspended.
- 48 2. It is unlawful for any person knowingly or
49 intentionally to possess a controlled substance,
50 counterfeit substance, or simulated controlled

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1 substance unless such substance was obtained directly
2 from or pursuant to a valid prescription or order of a
3 practitioner while acting in the course of the
4 practitioner's professional practice, or except as
5 otherwise authorized by this chapter. A person who
6 violates this subsection with respect to possession of
7 the following substances is guilty of the following:

8 a. Marijuana in an amount less than one ounce, is
9 guilty of a serious misdemeanor. Punishment shall be
10 imprisonment in the county jail for not more than six
11 months or a fine of not less than one hundred dollars
12 nor more than one thousand dollars, or by both such
13 imprisonment and fine.

14 b. Marijuana in an amount of one ounce or more, or
15 any amount of any other controlled substance
16 classified in schedule I, II, III, IV, or V is guilty
17 of an aggravated misdemeanor.

18 c. Any of the following controlled substances,
19 counterfeit substances, or simulated controlled
20 substances in the following amounts is guilty of a
21 class "D" felony:

22 (1) One hundred grams or more of a mixture or
23 substance containing a detectable amount of heroin.

24 (2) Five hundred grams or more of any of the
25 following:

26 (a) Coca leaves, except coca leaves and extracts
27 of coca leaves from which cocaine, ecgonine, and
28 derivatives of ecgonine or their salts have been
29 removed.

30 (b) Cocaine, its salts, optical and geometric
31 isomers, and salts of isomers.

32 (c) Ecgonine, its derivatives, their salts,
33 isomers, and salts of isomers.

34 (d) Any compound, mixture, or preparation which
35 contains any quantity of any of the substances
36 referred to in subparagraph subdivisions (a) through
37 (c).

38 (3) Five grams or more of a mixture or substance
39 described in subparagraph (2) which contains cocaine
40 base.

41 (4) Ten grams or more of phencyclidine (PCP) or
42 more than one hundred kilograms of a mixture or
43 substance containing a detectable amount of
44 phencyclidine (PCP).

45 (5) Ten grams or more of lysergic acid
46 diethylamide (LSD).

47 d. Marijuana in an amount of one ounce or more, or
48 any amount of any other controlled substance
49 classified in schedule I, II, III, IV, or V, if the
50 person violating this subsection has previously been

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1 convicted of a violation of the laws of this or any
2 other jurisdiction proscribing delivery, sale,
3 manufacturing, or possession with the intent to
4 deliver or manufacture any controlled substance,
5 counterfeit substance, or simulated controlled
6 substance, is guilty of a class "D" felony.

7 3. If the same person commits two or more acts
8 which are in violation of this section and the acts
9 occur in approximately the same location or time
10 period so that the acts can be attributed to a single
11 scheme, plan, or conspiracy, the acts may be
12 considered a single violation and the weight of the
13 controlled substances, counterfeit substances, or
14 simulated controlled substances involved may be
15 combined for purposes of charging the offender.

16 Sec. 2. Section 204.406, Code 1989, is amended by
17 striking the section and inserting in lieu thereof the
18 following:

19 204.406 DISTRIBUTION TO PERSON UNDER AGE EIGHTEEN.

20 1. A person who is eighteen years of age or older
21 who:

22 a. Unlawfully distributes a substance listed in
23 schedule I or II, which is a narcotic or cocaine, to a
24 person under eighteen years of age commits a class "B"
25 felony and shall serve a minimum term of confinement
26 of five years. However, if the substance was
27 distributed in or on, or within one thousand feet of,
28 the real property comprising a public or private
29 elementary or secondary school, the person shall serve
30 a minimum term of confinement of ten years.

31 b. Unlawfully distributes a controlled substance
32 other than a narcotic or cocaine listed in schedule I,
33 II, or III to a person under eighteen years of age who
34 is at least three years younger than the violator
35 commits a class "C" felony.

36 c. Unlawfully distributes a controlled substance
37 listed in schedule IV or V to a person under eighteen
38 years of age who is at least three years younger than
39 the violator commits an aggravated misdemeanor.

40 2. A person who is eighteen years of age or older
41 who:

42 a. Unlawfully distributes a counterfeit substance
43 listed in schedule I or II which is a narcotic or
44 cocaine, or a simulated controlled substance
45 represented to be a narcotic or cocaine classified in
46 schedule I or II, to a person under eighteen years of
47 age commits a class "B" felony. However, if the
48 substance was distributed in or on, or within one
49 thousand feet of, the real property comprising a
50 public or private elementary or secondary school, the

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1 person shall serve a minimum term of confinement of
2 ten years.

3 b. Unlawfully distributes a counterfeit substance
4 other than a narcotic or cocaine listed in schedule I,
5 II, or III, or a simulated controlled substance
6 represented to be any substance listed in schedule I,
7 II, or III, to a person under eighteen years of age
8 who is at least three years younger than the violator
9 commits a class "C" felony.

10 c. Unlawfully distributes a counterfeit substance
11 listed in schedule IV or V, or a simulated controlled
12 substance represented to be a substance listed in
13 schedule IV or V, to a person under eighteen years of
14 age who is at least three years younger than the
15 violator commits an aggravated misdemeanor.

16 3. It is unlawful for a person to deliver a
17 controlled substance to another person in order to act
18 with, enter into a common scheme or design with,
19 conspire with, or recruit the other person for the
20 purpose of delivering a controlled substance to one or
21 more persons under eighteen years of age. A person
22 who violates this subsection with respect to a
23 controlled substance classified in schedule I, II,
24 III, IV, or V is guilty of a class "D" felony.

25 Sec. 3. Section 204.409, subsection 1, Code 1989,
26 is amended to read as follows:

27 1. Whenever a person who has not previously been
28 convicted of an offense under this chapter or an
29 offense under a state or federal statute relating to
30 narcotic drugs or cocaine, marijuana, or stimulant,
31 depressant, or hallucinogenic drugs, pleads guilty to
32 or is found guilty of possession of a controlled
33 substance under section 204.401, subsection 3 2, or is
34 sentenced pursuant to section 204.410, the court,
35 without entering a judgment of guilt and with the
36 consent of the accused, may defer further proceedings
37 and place the accused on probation upon terms and
38 conditions as it requires. When a person is placed on
39 probation under this subsection, the person's
40 appearance bond may be discharged at the discretion of
41 the court. Upon violation of a term or condition, the
42 court may enter an adjudication of guilt and proceed
43 as otherwise provided. Upon fulfillment of the terms
44 and conditions, the court shall discharge the person
45 and dismiss the proceedings against the person.
46 Discharge and dismissal under this section shall be
47 without court adjudication of guilt and is not a
48 conviction for purposes of this section or for
49 purposes of disqualifications or disabilities imposed
50 by law upon conviction of a crime, including the

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1 additional penalties imposed for second or subsequent
2 convictions under section 204.410. Discharge and
3 dismissal under this section may occur only once with
4 respect to any person.

5 Sec. 4. Section 204.410, Code 1989, is amended to
6 read as follows:

7 204.410 ACCOMMODATION OFFENSE.

8 In a prosecution for unlawful delivery or
9 possession with intent to deliver marijuana, if the
10 prosecution proves that the defendant violated the
11 provisions of section 204.401, subsection 1, by
12 proving that the defendant delivered or possessed with
13 intent to deliver one ounce or less of marijuana, the
14 defendant is guilty of an accommodation offense and
15 rather than being sentenced as if convicted for a
16 violation of section 204.401, subsection 1, paragraph
17 "b" "d", shall be sentenced as if convicted of a
18 violation of section 204.401, subsection 3 2. An
19 accommodation offense may be proved as an included
20 offense under a charge of delivering or possessing
21 with the intent to deliver marijuana in violation of
22 section 204.401, subsection 1. This section does not
23 apply to hashish, hashish oil, or other derivatives of
24 marijuana as defined in section 204.101, subsection
25 17.

26 Sec. 5. Section 204.411, subsection 3, Code 1989,
27 is amended to read as follows:

28 3. This section does not apply to offenses under
29 section 204.401, subsection 3 2.

30 Sec. 6. Section 204.413, unnumbered paragraph 1,
31 Code 1989, is amended to read as follows:

32 A person sentenced pursuant to section 204.401,
33 subsection 1, paragraph "a" or "b" shall is not be
34 eligible for parole until the person has served a
35 minimum period of confinement of one-third of the
36 maximum indeterminate sentence prescribed-by-law
37 imposed by the court.

38 A person sentenced pursuant to section 204.401,
39 subsection 1, paragraph "e" or "f", is not eligible
40 for parole until the person has served a minimum
41 period of confinement of one-third of each term
42 imposed.

43 Sec. 7. Section 907.3, unnumbered paragraph 1,
44 Code 1989, is amended to read as follows:

45 Pursuant to section 901.5, the trial court may,
46 upon a plea of guilty, a verdict of guilty, or a
47 special verdict upon which a judgment of conviction
48 may be rendered, exercise any of the options contained
49 in subsections 1 and 2 of this section. However, this
50 section shall not apply to a forcible felony or

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1 violations of section 204.401, subsection 1.
2 Sec. 8. Section 204.414, Code 1989, is repealed."
3 2. Title page, by striking lines 1 and 2 and
4 inserting the following: "An Act prohibiting the
5 unauthorized manufacture, delivery, possession with
6 intent to manufacture or deliver, or possession of a
7 controlled substance, a counterfeit substance, or a
8 simulated controlled substance, and providing
9 penalties."

By MARK HAGERLA

S-3325 FILED MARCH 20, 1989

RULED OUT OF ORDER

3-20-89 (p892)

SENATE FILE 315

S-3416

1 Amend Senate File 315 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. ____ . Section 204.401, Code 1989, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 204.401 PROHIBITED ACTS -- MANUFACTURERS --
8 POSSESSORS -- CONTROLLED SUBSTANCES -- COUNTERFEIT
9 SUBSTANCES -- SIMULATED CONTROLLED SUBSTANCES --
10 PENALTIES.

11 1. Except as authorized by this chapter, it is
12 unlawful for any person to manufacture, deliver, or
13 possess with the intent to manufacture or deliver, a
14 controlled substance, a counterfeit substance, or a
15 simulated controlled substance, or to act with, enter
16 into a common scheme or design with, or conspire with
17 one or more other persons to manufacture, deliver, or
18 possess with the intent to manufacture or deliver, a
19 controlled substance, a counterfeit substance, or a
20 simulated controlled substance.

21 a. Violation of this subsection, with respect to
22 the following controlled substances, counterfeit
23 substances, or simulated controlled substances is a
24 class "B" felony, and notwithstanding section 902.9,
25 subsection 1, shall be punished by confinement for no
26 more than fifty years and a fine of not less than ten
27 thousand dollars nor more than one million dollars:

28 (1) More than one kilogram of a mixture or
29 substance containing a detectable amount of heroin.

30 (2) More than five kilograms of a mixture or
31 substance containing a detectable amount of any of the
32 following:

33 (a) Coca leaves, except coca leaves and extracts
34 of coca leaves from which cocaine, ecgonine, and
35 derivatives of ecgonine or their salts have been
36 removed.

37 (b) Cocaine, its salts, optical and geometric
38 isomers, and salts of isomers.

39 (c) Ecgonine, its derivatives, their salts,
40 isomers, and salts of isomers.

41 (d) Any compound, mixture, or preparation which
42 contains any quantity of any of the substances
43 referred to in subparagraph subdivisions (a) through
44 (c).

45 (3) More than fifty grams of a mixture or
46 substance described in subparagraph 2 which contains
47 cocaine base.

48 (4) More than one hundred grams of phencyclidine
49 (PCP) or one kilogram or more of a mixture or
50 substance containing a detectable amount of

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1 phencyclidine (PCP).
2 (5) More than ten grams of a mixture or substance
3 containing a detectable amount of lysergic acid
4 diethylamide (LSD).
5 (6) More than one thousand kilograms of a mixture
6 or substance containing a detectable amount of
7 marijuana.

8 b. Violation of this subsection with respect to
9 the following controlled substances, counterfeit
10 substances, or simulated controlled substances is a
11 class "B" felony, and in addition to the provisions of
12 section 902.9, subsection 1, shall be punished by a
13 fine of not less than five thousand dollars nor more
14 than one hundred thousand dollars:

15 (1) More than one hundred grams but not more than
16 one kilogram of a mixture or substance containing a
17 detectable amount of heroin.

18 (2) More than five hundred grams but not more than
19 five kilograms of any of the following:

20 (a) Coca leaves, except coca leaves and extracts
21 of coca leaves from which cocaine, ecgonine, and
22 derivatives of ecgonine or their salts have been
23 removed.

24 (b) Cocaine, its salts, optical and geometric
25 isomers, and salts of isomers.

26 (c) Ecgonine, its derivatives, their salts,
27 isomers, and salts of isomers.

28 (d) Any compound, mixture, or preparation which
29 contains any quantity of any of the substances
30 referred to in subparagraph subdivisions (a) through
31 (c).

32 (3) More than five grams but not more than fifty
33 grams of a mixture or substance described in
34 subparagraph (2) which contains cocaine base.

35 (4) More than ten grams but not more than one
36 hundred grams of phencyclidine (PCP) or more than one
37 hundred grams but not more than one kilogram of a
38 mixture or substance containing a detectable amount of
39 phencyclidine (PCP).

40 (5) Not more than ten grams of lysergic acid
41 diethylamide (LSD).

42 (6) More than one hundred kilograms but not more
43 than one thousand kilograms of marijuana.

44 c. Violation of this subsection with respect to
45 the following controlled substances, counterfeit
46 substances, or simulated controlled substances is a
47 class "C" felony, and in addition to the provisions of
48 section 902.9, subsection 3, shall be punished by a
49 fine of not less than one thousand dollars nor more
50 than fifty thousand dollars:

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- 1 (1) One hundred grams or less of a mixture or
2 substance containing a detectable amount of heroin.
3 (2) Five hundred grams or less of any of the
4 following:
5 (a) Coca leaves, except coca leaves and extracts
6 of coca leaves from which cocaine, ecgonine, and
7 derivatives of ecgonine or their salts have been
8 removed.
9 (b) Cocaine, its salts, optical and geometric
10 isomers, and salts of isomers.
11 (c) Ecgonine, its derivatives, their salts,
12 isomers, and salts of isomers.
13 (d) Any compound, mixture, or preparation which
14 contains any quantity of any of the substances
15 referred to in subparagraph subdivisions (a) through
16 (c).
17 (3) Five grams or less of a mixture or substance
18 described in subparagraph (2) which contains cocaine
19 base.
20 (4) Ten grams or less of phencyclidine (PCP) or
21 one hundred grams or less of a mixture or substance
22 containing a detectable amount of phencyclidine (PCP).
23 (5) More than fifty kilograms but not more than
24 one hundred kilograms of marijuana.
25 (6) Any other controlled substance classified in
26 schedule I, II, or III.
27 d. Violations of this subsection, with respect to
28 any other controlled substances, counterfeit
29 substances, or simulated controlled substances
30 classified in schedule IV or V, or less than fifty
31 kilograms of marijuana, or any other amount of such
32 substances, is a class "D" felony, and in addition to
33 the provisions of section 902.9, subsection 4, shall
34 be punished by a fine of not less than one thousand
35 dollars nor more than five thousand dollars.
36 2. It is unlawful for any person knowingly or
37 intentionally to possess a controlled substance,
38 counterfeit substance, or simulated controlled
39 substance unless such substance was obtained directly
40 from or pursuant to a valid prescription or order of a
41 practitioner while acting in the course of the
42 practitioner's professional practice, or except as
43 otherwise authorized by this chapter. A person who
44 violates this subsection with respect to possession of
45 the following substances is guilty of the following:
46 a. Marijuana in an amount less than one ounce, is
47 guilty of a serious misdemeanor. Punishment shall be
48 imprisonment in the county jail for not more than six
49 months or a fine of not less than one hundred dollars
50 nor more than one thousand dollars, or by both such

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1 imprisonment and fine.
2 b. Marijuana in an amount of one ounce or more, or
3 any amount of any other controlled substance
4 classified in schedule I, II, III, IV, or V is guilty
5 of an aggravated misdemeanor.
6 c. Any of the following controlled substances,
7 counterfeit substances, or simulated controlled
8 substances in the following amounts is guilty of a
9 class "D" felony:
10 (1) One hundred grams or more of a mixture or
11 substance containing a detectable amount of heroin.
12 (2) Five hundred grams or more of any of the
13 following:
14 (a) Coca leaves, except coca leaves and extracts
15 of coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed.
18 (b) Cocaine, its salts, optical and geometric
19 isomers, and salts of isomers.
20 (c) Ecgonine, its derivatives, their salts,
21 isomers, and salts of isomers.
22 (d) Any compound, mixture, or preparation which
23 contains any quantity of any of the substances
24 referred to in subparagraph subdivisions (a) through
25 (c).
26 (3) Five grams or more of a mixture or substance
27 described in subparagraph (2) which contains cocaine
28 base.
29 (4) Ten grams or more of phencyclidine (PCP) or
30 more than one hundred kilograms of a mixture or
31 substance containing a detectable amount of
32 phencyclidine (PCP).
33 (5) Ten grams or more of lysergic acid
34 diethylamide (LSD).
35 d. Marijuana in an amount of one ounce or more, or
36 any amount of any other controlled substance
37 classified in schedule I, II, III, IV, or V, if the
38 person violating this subsection has previously been
39 convicted of a violation of the laws of this or any
40 other jurisdiction proscribing delivery, sale,
41 manufacturing, or possession with the intent to
42 deliver or manufacture any controlled substance,
43 counterfeit substance, or simulated controlled
44 substance, is guilty of a class "D" felony.
45 3. If the same person commits two or more acts
46 which are in violation of this section and the acts
47 occur in approximately the same location or time
48 period so that the acts can be attributed to a single
49 scheme, plan, or conspiracy, the acts may be
50 considered a single violation and the weight of the

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1 controlled substances, counterfeit substances, or
2 simulated controlled substances involved may be
3 combined for purposes of charging the offender.

4 Sec. ____ . Section 204.406, subsections 1 and 2,
5 Code 1989, are amended by striking the subsections and
6 inserting in lieu thereof the following:

7 1. A person who is eighteen years of age or older
8 who:

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

18 b. Unlawfully distributes a controlled substance
19 other than a narcotic or cocaine listed in schedule I,
20 II, or III to a person under eighteen years of age who
21 is at least three years younger than the violator
22 commits a class "C" felony.

23 c. Unlawfully distributes a controlled substance
24 listed in schedule IV or V to a person under eighteen
25 years of age who is at least three years younger than
26 the violator commits an aggravated misdemeanor.

27 2. A person who is eighteen years of age or older
28 who:

29 a. Unlawfully distributes a counterfeit substance
30 listed in schedule I or II which is a narcotic or
31 cocaine, or a simulated controlled substance
32 represented to be a narcotic or cocaine classified in
33 schedule I or II, to a person under eighteen years of
34 age commits a class "B" felony. However, if the
35 substance was distributed in or on, or within one
36 thousand feet of, the real property comprising a
37 public or private elementary or secondary school, the
38 person shall serve a minimum term of confinement of
39 ten years.

40 b. Unlawfully distributes a counterfeit substance
41 other than a narcotic or cocaine listed in schedule I,
42 II, or III, or a simulated controlled substance
43 represented to be any substance listed in schedule I,
44 II, or III, to a person under eighteen years of age
45 who is at least three years younger than the violator
46 commits a class "C" felony.

47 c. Unlawfully distributes a counterfeit substance
48 listed in schedule IV or V, or a simulated controlled
49 substance represented to be a substance listed in
50 schedule IV or V, to a person under eighteen years of

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1 age who is at least three years younger than the
2 violator commits an aggravated misdemeanor."

3 2. Page 1, by inserting after line 10, the
4 following:

5 "Sec. ____ . Section 204.409, subsection 1, Code
6 1989, is amended to read as follows:

7 1. Whenever a person who has not previously been
8 convicted of an offense under this chapter or an
9 offense under a state or federal statute relating to
10 narcotic drugs or cocaine, marijuana, or stimulant,
11 depressant, or hallucinogenic drugs, pleads guilty to
12 or is found guilty of possession of a controlled
13 substance under section 204.401, subsection 3 2, or is
14 sentenced pursuant to section 204.410, the court,
15 without entering a judgment of guilt and with the
16 consent of the accused, may defer further proceedings
17 and place the accused on probation upon terms and
18 conditions as it requires. When a person is placed on
19 probation under this subsection, the person's
20 appearance bond may be discharged at the discretion of
21 the court. Upon violation of a term or condition, the
22 court may enter an adjudication of guilt and proceed
23 as otherwise provided. Upon fulfillment of the terms
24 and conditions, the court shall discharge the person
25 and dismiss the proceedings against the person.
26 Discharge and dismissal under this section shall be
27 without court adjudication of guilt and is not a
28 conviction for purposes of this section or for
29 purposes of disqualifications or disabilities imposed
30 by law upon conviction of a crime, including the
31 additional penalties imposed for second or subsequent
32 convictions under section 204.410. Discharge and
33 dismissal under this section may occur only once with
34 respect to any person.

35 Sec. ____ . Section 204.410, Code 1989, is amended
36 to read as follows:

37 204.410 ACCOMMODATION OFFENSE.

38 In a prosecution for unlawful delivery or
39 possession with intent to deliver marijuana, if the
40 prosecution proves that the defendant violated the
41 provisions of section 204.401, subsection 1, by
42 proving that the defendant delivered or possessed with
43 intent to deliver one ounce or less of marijuana, the
44 defendant is guilty of an accommodation offense and
45 rather than being sentenced as if convicted for a
46 violation of section 204.401, subsection 1, paragraph
47 "b" "d", shall be sentenced as if convicted of a
48 violation of section 204.401, subsection 3 2. An
49 accommodation offense may be proved as an included
50 offense under a charge of delivering or possessing

1 with the intent to deliver marijuana in violation of
2 section 204.401, subsection 1. This section does not
3 apply to hashish, hashish oil, or other derivatives of
4 marijuana as defined in section 204.101, subsection
5 17.

6 Sec. _____. Section 204.411, subsection 3, Code
7 1989, is amended to read as follows:

8 3. This section does not apply to offenses under
9 section 204.401, subsection 3 2.

10 Sec. _____. Section 204.413, unnumbered paragraph 1,
11 Code 1989, is amended to read as follows:

12 A person sentenced pursuant to section 204.401,
13 subsection 1, ~~paragraph "a" or "b" shall~~ is not be
14 eligible for parole until the person has served a
15 minimum period of confinement of one-third of the
16 maximum indeterminate sentence ~~prescribed by law~~
17 imposed by the court.

18 A person sentenced pursuant to section 204.401,
19 subsection 1, paragraph "e" or "f", is not eligible
20 for parole until the person has served a minimum
21 period of confinement of one-third of each term
22 imposed.

23 Sec. _____. Section 907.3, unnumbered paragraph 1,
24 Code 1989, is amended to read as follows:

25 Pursuant to section 901.5, the trial court may,
26 upon a plea of guilty, a verdict of guilty, or a
27 special verdict upon which a judgment of conviction
28 may be rendered, exercise any of the options contained
29 in subsections 1 and 2 of this section. However, this
30 section shall not apply to a forcible felony or
31 violations of section 204.401, subsection 1.

32 Sec. _____. Section 204.414, Code 1989, is
33 repealed."

34 3. By renumbering as necessary.

By MARK HAGERLA

SENATE FILE 315

S-3448

1 Amend Senate File 315 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. ____ Section 204.401, Code 1989, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 204.401 PROHIBITED ACTS -- MANUFACTURERS --
8 POSSESSORS -- CONTROLLED SUBSTANCES -- COUNTERFEIT
9 SUBSTANCES -- SIMULATED CONTROLLED SUBSTANCES --
10 PENALTIES.

11 1. Except as authorized by this chapter, it is
12 unlawful for any person to manufacture, deliver, or
13 possess with the intent to manufacture or deliver, a
14 controlled substance, a counterfeit substance, or a
15 simulated controlled substance, or to act with, enter
16 into a common scheme or design with, or conspire with
17 one or more other persons to manufacture, deliver, or
18 possess with the intent to manufacture or deliver, a
19 controlled substance, a counterfeit substance, or a
20 simulated controlled substance.

21 a. Violation of this subsection, with respect to
22 the following controlled substances, counterfeit
23 substances, or simulated controlled substances is a
24 class "B" felony, and notwithstanding section 902.9,
25 subsection 1, shall be punished by confinement for no
26 more than fifty years and a fine of not less than ten
27 thousand dollars nor more than one million dollars:

28 (1) More than one kilogram of a mixture or
29 substance containing a detectable amount of heroin.

30 (2) More than five kilograms of a mixture or
31 substance containing a detectable amount of any of the
32 following:

33 (a) Coca leaves, except coca leaves and extracts
34 of coca leaves from which cocaine, ecgonine, and
35 derivatives of ecgonine or their salts have been
36 removed.

37 (b) Cocaine, its salts, optical and geometric
38 isomers, and salts of isomers.

39 (c) Ecgonine, its derivatives, their salts,
40 isomers, and salts of isomers.

41 (d) Any compound, mixture, or preparation which
42 contains any quantity of any of the substances
43 referred to in subparagraph subdivisions (a) through
44 (c).

45 (3) More than fifty grams of a mixture or
46 substance described in subparagraph 2 which contains
47 cocaine base.

48 (4) More than one hundred grams of phencyclidine
49 (PCP) or one kilogram or more of a mixture or
50 substance containing a detectable amount of

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1 phencyclidine (PCP).

2 (5) More than ten grams of a mixture or substance
3 containing a detectable amount of lysergic acid
4 diethylamide (LSD).

5 (6) More than one thousand kilograms of a mixture
6 or substance containing a detectable amount of
7 marijuana.

8 b. Violation of this subsection with respect to
9 the following controlled substances, counterfeit
10 substances, or simulated controlled substances is a
11 class "B" felony, and in addition to the provisions of
12 section 902.9, subsection 1, shall be punished by a
13 fine of not less than five thousand dollars nor more
14 than one hundred thousand dollars:

15 (1) More than one hundred grams but not more than
16 one kilogram of a mixture or substance containing a
17 detectable amount of heroin.

18 (2) More than five hundred grams but not more than
19 five kilograms of any of the following:

20 (a) Coca leaves, except coca leaves and extracts
21 of coca leaves from which cocaine, ecgonine, and
22 derivatives of ecgonine or their salts have been
23 removed.

24 (b) Cocaine, its salts, optical and geometric
25 isomers, and salts of isomers.

26 (c) Ecgonine, its derivatives, their salts,
27 isomers, and salts of isomers.

28 (d) Any compound, mixture, or preparation which
29 contains any quantity of any of the substances
30 referred to in subparagraph subdivisions (a) through
31 (c).

32 (3) More than five grams but not more than fifty
33 grams of a mixture or substance described in
34 subparagraph (2) which contains cocaine base.

35 (4) More than ten grams but not more than one
36 hundred grams of phencyclidine (PCP) or more than one
37 hundred grams but not more than one kilogram of a
38 mixture or substance containing a detectable amount of
39 phencyclidine (PCP).

40 (5) Not more than ten grams of lysergic acid
41 diethylamide (LSD).

42 (6) More than one hundred kilograms but not more
43 than one thousand kilograms of marijuana.

44 c. Violation of this subsection with respect to
45 the following controlled substances, counterfeit
46 substances, or simulated controlled substances is a
47 class "C" felony, and in addition to the provisions of
48 section 902.9, subsection 3, shall be punished by a
49 fine of not less than one thousand dollars nor more
50 than fifty thousand dollars:

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1 (1) One hundred grams or less of a mixture or
2 substance containing a detectable amount of heroin.
3 (2) Five hundred grams or less of any of the
4 following:
5 (a) Coca leaves, except coca leaves and extracts
6 of coca leaves from which cocaine, ecgonine, and
7 derivatives of ecgonine or their salts have been
8 removed.
9 (b) Cocaine, its salts, optical and geometric
10 isomers, and salts of isomers.
11 (c) Ecgonine, its derivatives, their salts,
12 isomers, and salts of isomers.
13 (d) Any compound, mixture, or preparation which
14 contains any quantity of any of the substances
15 referred to in subparagraph subdivisions (a) through
16 (c).
17 (3) Five grams or less of a mixture or substance
18 described in subparagraph (2) which contains cocaine
19 base.
20 (4) Ten grams or less of phencyclidine (PCP) or
21 one hundred grams or less of a mixture or substance
22 containing a detectable amount of phencyclidine (PCP).
23 (5) More than fifty kilograms but not more than
24 one hundred kilograms of marijuana.
25 (6) Any other controlled substance classified in
26 schedule I, II, or III.
27 d. Violations of this subsection, with respect to
28 any other controlled substances, counterfeit
29 substances, or simulated controlled substances
30 classified in schedule IV or V, or less than fifty
31 kilograms of marijuana, or any other amount of such
32 substances, is a class "D" felony, and in addition to
33 the provisions of section 902.9, subsection 4, shall
34 be punished by a fine of not less than one thousand
35 dollars nor more than five thousand dollars.
36 2. It is unlawful for any person knowingly or
37 intentionally to possess a controlled substance,
38 counterfeit substance, or simulated controlled
39 substance unless such substance was obtained directly
40 from or pursuant to a valid prescription or order of a
41 practitioner while acting in the course of the
42 practitioner's professional practice, or except as
43 otherwise authorized by this chapter. A person who
44 violates this subsection with respect to possession of
45 the following substances is guilty of the following:
46 a. Marijuana in an amount less than one ounce, is
47 guilty of a serious misdemeanor. Punishment shall be
48 imprisonment in the county jail for not more than six
49 months or a fine of not less than one hundred dollars
50 nor more than one thousand dollars, or by both such

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1 imprisonment and fine. >
2 b. Marijuana in an amount of one ounce or more, or
3 any amount of any other controlled substance
4 classified in schedule I, II, III, IV, or V is guilty
5 of an aggravated misdemeanor.
6 c. Any of the following controlled substances,
7 counterfeit substances, or simulated controlled
8 substances in the following amounts is guilty of a
9 class "D" felony:
10 (1) One hundred grams or more of a mixture or
11 substance containing a detectable amount of heroin.
12 (2) Five hundred grams or more of any of the
13 following:
14 (a) Coca leaves, except coca leaves and extracts
15 of coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed.
18 (b) Cocaine, its salts, optical and geometric
19 isomers, and salts of isomers.
20 (c) Ecgonine, its derivatives, their salts,
21 isomers, and salts of isomers.
22 (d) Any compound, mixture, or preparation which
23 contains any quantity of any of the substances
24 referred to in subparagraph subdivisions (a) through
25 (c).
26 (3) Five grams or more of a mixture or substance
27 described in subparagraph (2) which contains cocaine
28 base.
29 (4) Ten grams or more of phencyclidine (PCP) or
30 more than one hundred kilograms of a mixture or
31 substance containing a detectable amount of
32 phencyclidine (PCP).
33 (5) Ten grams or more of lysergic acid
34 diethylamide (LSD).
35 d. Marijuana in an amount of one ounce or more, or
36 any amount of any other controlled substance
37 classified in schedule I, II, III, IV, or V, if the
38 person violating this subsection has previously been
39 convicted of a violation of the laws of this or any
40 other jurisdiction proscribing delivery, sale,
41 manufacturing, or possession with the intent to
42 deliver or manufacture any controlled substance,
43 counterfeit substance, or simulated controlled
44 substance, is guilty of a class "D" felony.
45 3. If the same person commits two or more acts
46 which are in violation of this section and the acts
47 occur in approximately the same location or time
48 period so that the acts can be attributed to a single
49 scheme, plan, or conspiracy, the acts may be
50 considered a single violation and the weight of the

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1 controlled substances, counterfeit substances, or
2 simulated controlled substances involved may be
3 combined for purposes of charging the offender.
4 Sec. ____ . Section 204.406, subsections 1 and 2,
5 Code 1989, are amended by striking the subsections and
6 inserting in lieu thereof the following:

7 1. A person who is eighteen years of age or older
8 who:

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

18 b. Unlawfully distributes a controlled substance
19 other than a narcotic or cocaine listed in schedule I,
20 II, or III to a person under eighteen years of age who
21 is at least three years younger than the violator
22 commits a class "C" felony.

23 c. Unlawfully distributes a controlled substance
24 listed in schedule IV or V to a person under eighteen
25 years of age who is at least three years younger than
26 the violator commits an aggravated misdemeanor.

27 2. A person who is eighteen years of age or older
28 who:

29 a. Unlawfully distributes a counterfeit substance
30 listed in schedule I or II which is a narcotic or
31 cocaine, or a simulated controlled substance
32 represented to be a narcotic or cocaine classified in
33 schedule I or II, to a person under eighteen years of
34 age commits a class "B" felony. However, if the
35 substance was distributed in or on, or within one
36 thousand feet of, the real property comprising a
37 public or private elementary or secondary school, the
38 person shall serve a minimum term of confinement of
39 ten years.

40 b. Unlawfully distributes a counterfeit substance
41 other than a narcotic or cocaine listed in schedule I,
42 II, or III, or a simulated controlled substance
43 represented to be any substance listed in schedule I,
44 II, or III, to a person under eighteen years of age
45 who is at least three years younger than the violator
46 commits a class "C" felony.

47 c. Unlawfully distributes a counterfeit substance
48 listed in schedule IV or V, or a simulated controlled
49 substance represented to be a substance listed in
50 schedule IV or V, to a person under eighteen years of

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1 age who is at least three years younger than the
2 violator commits an aggravated misdemeanor."

3 2. Page 1, by inserting after line 10, the
4 following:

5 "Sec. ____ . Section 204.409, subsection 1, Code
6 1989, is amended to read as follows:

7 1. Whenever a person who has not previously been
8 convicted of an offense under this chapter or an
9 offense under a state or federal statute relating to
10 narcotic drugs or cocaine, marijuana, or stimulant,
11 depressant, or hallucinogenic drugs, pleads guilty to
12 or is found guilty of possession of a controlled
13 substance under section 204.401, subsection 3 2, or is
14 sentenced pursuant to section 204.410, the court,
15 without entering a judgment of guilt and with the
16 consent of the accused, may defer further proceedings
17 and place the accused on probation upon terms and
18 conditions as it requires. When a person is placed on
19 probation under this subsection, the person's
20 appearance bond may be discharged at the discretion of
21 the court. Upon violation of a term or condition, the
22 court may enter an adjudication of guilt and proceed
23 as otherwise provided. Upon fulfillment of the terms
24 and conditions, the court shall discharge the person
25 and dismiss the proceedings against the person.
26 Discharge and dismissal under this section shall be
27 without court adjudication of guilt and is not a
28 conviction for purposes of this section or for
29 purposes of disqualifications or disabilities imposed
30 by law upon conviction of a crime, including the
31 additional penalties imposed for second or subsequent
32 convictions under section 204.410. Discharge and
33 dismissal under this section may occur only once with
34 respect to any person.

35 Sec. ____ . Section 204.410, Code 1989, is amended
36 to read as follows:

37 204.410 ACCOMMODATION OFFENSE.

38 In a prosecution for unlawful delivery or
39 possession with intent to deliver marijuana, if the
40 prosecution proves that the defendant violated the
41 provisions of section 204.401, subsection 1, by
42 proving that the defendant delivered or possessed with
43 intent to deliver one ounce or less of marijuana, the
44 defendant is guilty of an accommodation offense and
45 rather than being sentenced as if convicted for a
46 violation of section 204.401, subsection 1, paragraph
47 "b" "d", shall be sentenced as if convicted of a
48 violation of section 204.401, subsection 3 2. An
49 accommodation offense may be proved as an included
50 offense under a charge of delivering or possessing

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1 with the intent to deliver marijuana in violation of
2 section 204.401, subsection 1. This section does not
3 apply to hashish, hashish oil, or other derivatives of
4 marijuana as defined in section 204.101, subsection
5 17.

6 Sec. _____. Section 204.411, subsection 3, Code
7 1989, is amended to read as follows:

8 3. This section does not apply to offenses under
9 section 204.401, subsection 3 2.

10 Sec. _____. Section 204.413, unnumbered paragraph 1,
11 Code 1989, is amended to read as follows:

12 A person sentenced pursuant to section 204.401,
13 subsection 1, ~~paragraph "a" or "b" shall~~ is not be
14 eligible for parole until the person has served a
15 minimum period of confinement of one-third of the
16 maximum indeterminate sentence ~~prescribed by law~~
17 imposed by the court.

18 Sec. _____. Section 907.3, unnumbered paragraph 1,
19 Code 1989, is amended to read as follows:

20 Pursuant to section 901.5, the trial court may,
21 upon a plea of guilty, a verdict of guilty, or a
22 special verdict upon which a judgment of conviction
23 may be rendered, exercise any of the options contained
24 in subsections 1 and 2 of this section. However, this
25 section shall not apply to a forcible felony or
26 violations of section 204.401, subsection 1.

27 Sec. _____. Section 204.414, Code 1989, is
28 repealed."

29 3. By renumbering as necessary.

By MARK HAGERLA

S-3448 FILED MARCH 28, 1989

WITHDRAWN 4-3-89 (p. 1140)

SENATE FILE 315

S-3482

1 Amend Senate File 315 as follows:

2 1. Page 1, by inserting after line 10 the
3 following:

4 "Sec. ____ . Section 204.414, Code 1989, is amended
5 to read as follows:

6 204.414 PENALTY ENHANCEMENT.

7 1. A person convicted of violating a provision of
8 this chapter, except section 204.401, subsection 3,
9 may be fined an amount not to exceed three times the
10 amount of the fine otherwise authorized for the
11 violation. This fine may be in addition to any other
12 penalty provided for violation of the provision.

13 2. A person in the immediate possession or control
14 of a firearm while participating in a violation of
15 section 204.401, where the violation is otherwise a
16 felony, and sections 204.402 and 204.403, may be
17 sentenced to two times the term otherwise imposed by
18 law.

19 3. A person in the immediate possession or control
20 of an offensive weapon, as defined in section 724.1,
21 while participating in a violation of section 204.401,
22 where the violation is otherwise a felony, and
23 sections 204.402 and 204.403, may be sentenced to two
24 times the term otherwise imposed by law."

25 2. Renumber as necessary.

By TOM MANN, Jr.

S-3482 FILED MARCH 29, 1989

Out of Order 4-3-89 (p. 1146)

SENATE FILE 315

S-3472

1 Amend Senate File 315 as follows:
2 1. Page 1, by inserting after line 10 the
3 following:
4 "Sec. ____ . Section 204.414, Code 1989, is amended
5 to read as follows:
6 204.414 PENALTY ENHANCEMENT.
7 1. A person convicted of violating a provision of
8 this chapter, except section 204.401, subsection 3,
9 may be fined an amount not to exceed three times the
10 amount of the fine otherwise authorized for the
11 violation. This fine may be in addition to any other
12 penalty provided for violation of the provision.
13 2. A person in the immediate possession or control
14 of a firearm while participating in a violation of
15 section 204.401, where the violation is otherwise a
16 felony, and sections 204.402 and 204.403, may be
17 sentenced to two times the term otherwise imposed by
18 law.
19 3. A person in the immediate possession or control
20 of an offensive weapon, as defined in section 724.1,
21 while participating in a violation of section 204.401,
22 where the violation is otherwise a felony, and
23 sections 204.402 and 204.403, may be sentenced to
24 three times the term otherwise imposed by law."
25 2. Renumber as necessary.

By TOM MANN, Jr.

S-3472 FILED MARCH 29, 1989

Withdrawn 4-3-89 (p.1140)

SENATE FILE 315

S-3487

1 Amend Senate File 315 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. ____ . Section 204.401, Code 1989, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 204.401 PROHIBITED ACTS -- MANUFACTURERS --
8 POSSESSORS -- CONTROLLED SUBSTANCES -- COUNTERFEIT
9 SUBSTANCES -- SIMULATED CONTROLLED SUBSTANCES --
10 PENALTIES.

11 1. Except as authorized by this chapter, it is
12 unlawful for any person to manufacture, deliver, or
13 possess with the intent to manufacture or deliver, a
14 controlled substance, a counterfeit substance, or a
15 simulated controlled substance, or to act with, enter
16 into a common scheme or design with, or conspire with
17 one or more other persons to manufacture, deliver, or
18 possess with the intent to manufacture or deliver, a
19 controlled substance, a counterfeit substance, or a
20 simulated controlled substance.

21 a. Violation of this subsection, with respect to
22 the following controlled substances, counterfeit
23 substances, or simulated controlled substances is a
24 class "B" felony, and notwithstanding section 902.9,
25 subsection 1, shall be punished by confinement for no
26 more than fifty years and a fine of not less than ten
27 thousand dollars nor more than one million dollars:

28 (1) More than one kilogram of a mixture or
29 substance containing a detectable amount of heroin.

30 (2) More than five kilograms of a mixture or
31 substance containing a detectable amount of any of the
32 following:

33 (a) Coca leaves, except coca leaves and extracts
34 of coca leaves from which cocaine, ecgonine, and
35 derivatives of ecgonine or their salts have been
36 removed.

37 (b) Cocaine, its salts, optical and geometric
38 isomers, and salts of isomers.

39 (c) Ecgonine, its derivatives, their salts,
40 isomers, and salts of isomers.

41 (d) Any compound, mixture, or preparation which
42 contains any quantity of any of the substances
43 referred to in subparagraph subdivisions (a) through
44 (c).

45 (3) More than fifty grams of a mixture or
46 substance described in subparagraph 2 which contains
47 cocaine base.

48 (4) More than one hundred grams of phencyclidine
49 (PCP) or one kilogram or more of a mixture or
50 substance containing a detectable amount of

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1 phencyclidine (PCP).

2 (5) More than ten grams of a mixture or substance
3 containing a detectable amount of lysergic acid
4 diethylamide (LSD).

5 (6) More than one thousand kilograms of a mixture
6 or substance containing a detectable amount of
7 marijuana.

8 b. Violation of this subsection with respect to
9 the following controlled substances, counterfeit
10 substances, or simulated controlled substances is a
11 class "B" felony, and in addition to the provisions of
12 section 902.9, subsection 1, shall be punished by a
13 fine of not less than five thousand dollars nor more
14 than one hundred thousand dollars:

15 (1) More than one hundred grams but not more than
16 one kilogram of a mixture or substance containing a
17 detectable amount of heroin.

18 (2) More than five hundred grams but not more than
19 five kilograms of any of the following:

20 (a) Coca leaves, except coca leaves and extracts
21 of coca leaves from which cocaine, ecgonine, and
22 derivatives of ecgonine or their salts have been
23 removed.

24 (b) Cocaine, its salts, optical and geometric
25 isomers, and salts of isomers.

26 (c) Ecgonine, its derivatives, their salts,
27 isomers, and salts of isomers.

28 (d) Any compound, mixture, or preparation which
29 contains any quantity of any of the substances
30 referred to in subparagraph subdivisions (a) through
31 (c).

32 (3) More than five grams but not more than fifty
33 grams of a mixture or substance described in
34 subparagraph (2) which contains cocaine base.

35 (4) More than ten grams but not more than one
36 hundred grams of phencyclidine (PCP) or more than one
37 hundred grams but not more than one kilogram of a
38 mixture or substance containing a detectable amount of
39 phencyclidine (PCP).

40 (5) Not more than ten grams of lysergic acid
41 diethylamide (LSD).

42 (6) More than one hundred kilograms but not more
43 than one thousand kilograms of marijuana.

44 c. Violation of this subsection with respect to
45 the following controlled substances, counterfeit
46 substances, or simulated controlled substances is a
47 class "C" felony, and in addition to the provisions of
48 section 902.9, subsection 3, shall be punished by a
49 fine of not less than one thousand dollars nor more
50 than fifty thousand dollars:

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- 1 (1) One hundred grams or less of a mixture or
2 substance containing a detectable amount of heroin.
3 (2) Five hundred grams or less of any of the
4 following:
5 (a) Coca leaves, except coca leaves and extracts
6 of coca leaves from which cocaine, ecgonine, and
7 derivatives of ecgonine or their salts have been
8 removed.
9 (b) Cocaine, its salts, optical and geometric
10 isomers, and salts of isomers.
11 (c) Ecgonine, its derivatives, their salts,
12 isomers, and salts of isomers.
13 (d) Any compound, mixture, or preparation which
14 contains any quantity of any of the substances
15 referred to in subparagraph subdivisions (a) through
16 (c).
17 (3) Five grams or less of a mixture or substance
18 described in subparagraph (2) which contains cocaine
19 base.
20 (4) Ten grams or less of phencyclidine (PCP) or
21 one hundred grams or less of a mixture or substance
22 containing a detectable amount of phencyclidine (PCP).
23 (5) More than fifty kilograms but not more than
24 one hundred kilograms of marijuana.
25 (6) Any other controlled substance classified in
26 schedule I, II, or III.
27 d. Violations of this subsection, with respect to
28 any other controlled substances, counterfeit
29 substances, or simulated controlled substances
30 classified in schedule IV or V, or less than fifty
31 kilograms of marijuana, or any other amount of such
32 substances, is a class "D" felony, and in addition to
33 the provisions of section 902.9, subsection 4, shall
34 be punished by a fine of not less than one thousand
35 dollars nor more than five thousand dollars.
36 2. It is unlawful for any person knowingly or
37 intentionally to possess a controlled substance,
38 counterfeit substance, or simulated controlled
39 substance unless such substance was obtained directly
40 from or pursuant to a valid prescription or order of a
41 practitioner while acting in the course of the
42 practitioner's professional practice, or except as
43 otherwise authorized by this chapter. A person who
44 violates this subsection with respect to possession of
45 the following substances is guilty of the following:
46 a. Marijuana in an amount less than one ounce, is
47 guilty of a serious misdemeanor. Punishment shall be
48 imprisonment in the county jail for not more than six
49 months or a fine of not less than one hundred dollars
50 nor more than one thousand dollars, or by both such

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1 imprisonment and fine.
2 b. Marijuana in an amount of one ounce or more, or
3 any amount of any other controlled substance
4 classified in schedule I, II, III, IV, or V is guilty
5 of an aggravated misdemeanor.
6 c. Any of the following controlled substances,
7 counterfeit substances, or simulated controlled
8 substances in the following amounts is guilty of a
9 class "D" felony:
10 (1) One hundred grams or more of a mixture or
11 substance containing a detectable amount of heroin.
12 (2) Five hundred grams or more of any of the
13 following:
14 (a) Coca leaves, except coca leaves and extracts
15 of coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed.
18 (b) Cocaine, its salts, optical and geometric
19 isomers, and salts of isomers.
20 (c) Ecgonine, its derivatives, their salts,
21 isomers, and salts of isomers.
22 (d) Any compound, mixture, or preparation which
23 contains any quantity of any of the substances
24 referred to in subparagraph subdivisions (a) through
25 (c).
26 (3) Five grams or more of a mixture or substance
27 described in subparagraph (2) which contains cocaine
28 base.
29 (4) Ten grams or more of phencyclidine (PCP) or
30 more than one hundred kilograms of a mixture or
31 substance containing a detectable amount of
32 phencyclidine (PCP).
33 (5) Ten grams or more of lysergic acid
34 diethylamide (LSD).
35 d. Marijuana in an amount of one ounce or more, or
36 any amount of any other controlled substance
37 classified in schedule I, II, III, IV, or V, if the
38 person violating this subsection has previously been
39 convicted of a violation of the laws of this or any
40 other jurisdiction proscribing delivery, sale,
41 manufacturing, or possession with the intent to
42 deliver or manufacture any controlled substance,
43 counterfeit substance, or simulated controlled
44 substance, is guilty of a class "D" felony.
45 3. If the same person commits two or more acts
46 which are in violation of this section and the acts
47 occur in approximately the same location or time
48 period so that the acts can be attributed to a single
49 scheme, plan, or conspiracy, the acts may be
50 considered a single violation and the weight of the

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1 controlled substances, counterfeit substances, or
2 simulated controlled substances involved may be
3 combined for purposes of charging the offender.
4 Sec. ____ . Section 204.406, subsections 1 and 2,
5 Code 1989, are amended by striking the subsections and
6 inserting in lieu thereof the following:

7 1. A person who is eighteen years of age or older
8 who:

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

18 b. Unlawfully distributes a controlled substance
19 other than a narcotic or cocaine listed in schedule I,
20 II, or III to a person under eighteen years of age who
21 is at least three years younger than the violator
22 commits a class "C" felony.

23 c. Unlawfully distributes a controlled substance
24 listed in schedule IV or V to a person under eighteen
25 years of age who is at least three years younger than
26 the violator commits an aggravated misdemeanor.

27 2. A person who is eighteen years of age or older
28 who:

29 a. Unlawfully distributes a counterfeit substance
30 listed in schedule I or II which is a narcotic or
31 cocaine, or a simulated controlled substance
32 represented to be a narcotic or cocaine classified in
33 schedule I or II, to a person under eighteen years of
34 age commits a class "B" felony. However, if the
35 substance was distributed in or on, or within one
36 thousand feet of, the real property comprising a
37 public or private elementary or secondary school, the
38 person shall serve a minimum term of confinement of
39 ten years.

40 b. Unlawfully distributes a counterfeit substance
41 other than a narcotic or cocaine listed in schedule I,
42 II, or III, or a simulated controlled substance
43 represented to be any substance listed in schedule I,
44 II, or III, to a person under eighteen years of age
45 who is at least three years younger than the violator
46 commits a class "C" felony.

47 c. Unlawfully distributes a counterfeit substance
48 listed in schedule IV or V, or a simulated controlled
49 substance represented to be a substance listed in
50 schedule IV or V, to a person under eighteen years of

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1 age who is at least three years younger than the
2 violator commits an aggravated misdemeanor."

3 2. Page 1, line 1, by striking the words and
4 figures "Section 204.406, Code 1989, is amended by
5 add-" and inserting the following: "NEW SECTION.
6 204.401A USE OF FIREARM OR OFFENSIVE WEAPON --
7 PENALTIES.

8 The penalties provided in section 204.401 shall
9 only apply where the person committing the unlawful
10 act in violation of section 204.401 is in the
11 immediate possession or control of a firearm or
12 offensive weapon while participating in the violation.

13 Sec. ____ . Section 204.406, Code 1989, is amended
14 by add-".

15 3. Page 1, by inserting after line 10, the
16 following:

17 "Sec. ____ . Section 204.409, subsection 1, Code
18 1989, is amended to read as follows:

19 1. Whenever a person who has not previously been
20 convicted of an offense under this chapter or an
21 offense under a state or federal statute relating to
22 narcotic drugs or cocaine, marijuana, or stimulant,
23 depressant, or hallucinogenic drugs, pleads guilty to
24 or is found guilty of possession of a controlled
25 substance under section 204.401, subsection 3 2, or is
26 sentenced pursuant to section 204.410, the court,
27 without entering a judgment of guilt and with the
28 consent of the accused, may defer further proceedings
29 and place the accused on probation upon terms and
30 conditions as it requires. When a person is placed on
31 probation under this subsection, the person's
32 appearance bond may be discharged at the discretion of
33 the court. Upon violation of a term or condition, the
34 court may enter an adjudication of guilt and proceed
35 as otherwise provided. Upon fulfillment of the terms
36 and conditions, the court shall discharge the person
37 and dismiss the proceedings against the person.
38 Discharge and dismissal under this section shall be
39 without court adjudication of guilt and is not a
40 conviction for purposes of this section or for
41 purposes of disqualifications or disabilities imposed
42 by law upon conviction of a crime, including the
43 additional penalties imposed for second or subsequent
44 convictions under section 204.410. Discharge and
45 dismissal under this section may occur only once with
46 respect to any person.

47 Sec. ____ . Section 204.410, Code 1989, is amended
48 to read as follows:

49 204.410 ACCOMMODATION OFFENSE.

50 In a prosecution for unlawful delivery or

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1 possession with intent to deliver marijuana, if the
 2 prosecution proves that the defendant violated the
 3 provisions of section 204.401, subsection 1, by
 4 proving that the defendant delivered or possessed with
 5 intent to deliver one ounce or less of marijuana, the
 6 defendant is guilty of an accommodation offense and
 7 rather than being sentenced as if convicted for a
 8 violation of section 204.401, subsection 1, paragraph
 9 "b" "d", shall be sentenced as if convicted of a
 10 violation of section 204.401, subsection 3 2. An
 11 accommodation offense may be proved as an included
 12 offense under a charge of delivering or possessing
 13 with the intent to deliver marijuana in violation of
 14 section 204.401, subsection 1. This section does not
 15 apply to hashish, hashish oil, or other derivatives of
 16 marijuana as defined in section 204.101, subsection
 17 17.

18 Sec. ____ . Section 204.411, subsection 3, Code
 19 1989, is amended to read as follows:

20 3. This section does not apply to offenses under
 21 section 204.401, subsection 3 2.

22 Sec. ____ . Section 204.413, unnumbered paragraph 1,
 23 Code 1989, is amended to read as follows:

24 A person sentenced pursuant to section 204.401,
 25 subsection 1, paragraph "a" or "b" shall is not be
 26 eligible for parole until the person has served a
 27 minimum period of confinement of one-third of the
 28 maximum indeterminate sentence prescribed by law
 29 imposed by the court.

30 A person sentenced pursuant to section 204.401,
 31 subsection 1, paragraph "e" or "f", is not eligible
 32 for parole until the person has served a minimum
 33 period of confinement of one-third of each term
 34 imposed.

35 Sec. ____ . Section 907.3, unnumbered paragraph 1,
 36 Code 1989, is amended to read as follows:

37 Pursuant to section 901.5, the trial court may,
 38 upon a plea of guilty, a verdict of guilty, or a
 39 special verdict upon which a judgment of conviction
 40 may be rendered, exercise any of the options contained
 41 in subsections 1 and 2 of this section. However, this
 42 section shall not apply to a forcible felony or
 43 violations of section 204.401, subsection 1.

44 Sec. ____ . Section 204.414, Code 1989, is
 45 repealed."

46 4. By renumbering as necessary.

By MARK HAGERLA

S-3487 FILED MARCH 29, 1989

Division
 Div.

3487 A - Out of Order 4-3-89 (p.1140)
 3487 B - Withdrawn 4-3-89 (p.1140)

SENATE FILE 315
FISCAL NOTE

A fiscal note for SENATE FILE 315 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 315 makes it a crime to act or conspire with, enter into a common scheme with, or recruit another person for the purpose of delivering a controlled substance to persons under 18 years old. Violations are punished as Class D felonies.

Senate File 315 will have a fiscal impact. However, the cost is expected to be nominal.

Sources: Department of Corrections
Judicial Department

(LSB 1992s, BAL)

FILED MARCH 28, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 315

H-3987

1 Amend Senate File 315, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking lines 1 through 3 and
4 inserting the following:

5 "Section 1. Section 204.401, Code 1989, is amended
6 by striking the section and inserting in lieu thereof
7 the following:

8 204.401 PROHIBITED ACTS -- MANUFACTURERS --
9 POSSESSORS -- CONTROLLED SUBSTANCES -- COUNTERFEIT
10 SUBSTANCES -- SIMULATED CONTROLLED SUBSTANCES --
11 PENALTIES.

12 1. Except as authorized by this chapter, it is
13 unlawful for any person to manufacture, deliver, or
14 possess with the intent to manufacture or deliver, a
15 controlled substance, a counterfeit substance, or a
16 simulated controlled substance, or to act with, enter
17 into a common scheme or design with, or conspire with
18 one or more other persons to manufacture, deliver, or
19 possess with the intent to manufacture or deliver, a
20 controlled substance, a counterfeit substance, or a
21 simulated controlled substance.

22 a. Violation of this subsection, with respect to
23 the following controlled substances, counterfeit
24 substances, or simulated controlled substances is a
25 class "B" felony, and notwithstanding section 902.9,
26 subsection 1, shall be punished by confinement for no
27 more than fifty years and a fine of not less than ten
28 thousand dollars nor more than one million dollars:

29 (1) More than one kilogram of a mixture or
30 substance containing a detectable amount of heroin.

31 (2) More than five kilograms of a mixture or
32 substance containing a detectable amount of any of the
33 following:

34 (a) Coca leaves, except coca leaves and extracts
35 of coca leaves from which cocaine, ecgonine, and
36 derivatives of ecgonine or their salts have been
37 removed.

38 (b) Cocaine, its salts, optical and geometric
39 isomers, and salts of isomers.

40 (c) Ecgonine, its derivatives, their salts,
41 isomers, and salts of isomers.

42 (d) Any compound, mixture, or preparation which
43 contains any quantity of any of the substances
44 referred to in subparagraph subdivisions (a) through
45 (c).

46 (3) More than fifty grams of a mixture or
47 substance described in subparagraph 2 which contains
48 cocaine base.

49 (4) More than one hundred grams of phencyclidine
50 (PCP) or one kilogram or more of a mixture or

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1 substance containing a detectable amount of
2 phencyclidine (PCP).

3 (5) More than ten grams of a mixture or substance
4 containing a detectable amount of lysergic acid
5 diethylamide (LSD).

6 (6) More than one thousand kilograms of a mixture
7 or substance containing a detectable amount of
8 marijuana.

9 b. Violation of this subsection with respect to
10 the following controlled substances, counterfeit
11 substances, or simulated controlled substances is a
12 class "B" felony, and in addition to the provisions of
13 section 902.9, subsection 1, shall be punished by a
14 fine of not less than five thousand dollars nor more
15 than one hundred thousand dollars:

16 (1) More than one hundred grams but not more than
17 one kilogram of a mixture or substance containing a
18 detectable amount of heroin.

19 (2) More than five hundred grams but not more than
20 five kilograms of any of the following:

21 (a) Coca leaves, except coca leaves and extracts
22 of coca leaves from which cocaine, ecgonine, and
23 derivatives of ecgonine or their salts have been
24 removed.

25 (b) Cocaine, its salts, optical and geometric
26 isomers, and salts of isomers.

27 (c) Ecgonine, its derivatives, their salts,
28 isomers, and salts of isomers.

29 (d) Any compound, mixture, or preparation which
30 contains any quantity of any of the substances
31 referred to in subparagraph subdivisions (a) through
32 (c).

33 (3) More than five grams but not more than fifty
34 grams of a mixture or substance described in
35 subparagraph (2) which contains cocaine base.

36 (4) More than ten grams but not more than one
37 hundred grams of phencyclidine (PCP) or more than one
38 hundred grams but not more than one kilogram of a
39 mixture or substance containing a detectable amount of
40 phencyclidine (PCP).

41 (5) Not more than ten grams of lysergic acid
42 diethylamide (LSD).

43 (6) More than one hundred kilograms but not more
44 than one thousand kilograms of marijuana.

45 c. Violation of this subsection with respect to
46 the following controlled substances, counterfeit
47 substances, or simulated controlled substances is a
48 class "C" felony, and in addition to the provisions of
49 section 902.9, subsection 3, shall be punished by a
50 fine of not less than one thousand dollars nor more

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1 than fifty thousand dollars:

2 (1) One hundred grams or less of a mixture or
3 substance containing a detectable amount of heroin.

4 (2) Five hundred grams or less of any of the
5 following:

6 (a) Coca leaves, except coca leaves and extracts
7 of coca leaves from which cocaine, ecgonine, and
8 derivatives of ecgonine or their salts have been
9 removed.

10 (b) Cocaine, its salts, optical and geometric
11 isomers, and salts of isomers.

12 (c) Ecgonine, its derivatives, their salts,
13 isomers, and salts of isomers.

14 (d) Any compound, mixture, or preparation which
15 contains any quantity of any of the substances
16 referred to in subparagraph subdivisions (a) through
17 (c).

18 (3) Five grams or less of a mixture or substance
19 described in subparagraph (2) which contains cocaine
20 base.

21 (4) Ten grams or less of phencyclidine (PCP) or
22 one hundred grams or less of a mixture or substance
23 containing a detectable amount of phencyclidine (PCP).

24 (5) More than fifty kilograms but not more than
25 one hundred kilograms of marijuana.

26 (6) Any other controlled substance classified in
27 schedule I, II, or III.

28 d. Violations of this subsection, with respect to
29 any other controlled substances, counterfeit
30 substances, or simulated controlled substances
31 classified in schedule IV or V, or less than fifty
32 kilograms of marijuana, or any other amount of such
33 substances, is a class "D" felony, and in addition to
34 the provisions of section 902.9, subsection 4, shall
35 be punished by a fine of not less than one thousand
36 dollars nor more than five thousand dollars.

37 e. A person in the immediate possession or control
38 of a firearm while participating in a violation of
39 this subsection shall be sentenced to two times the
40 term otherwise imposed by law, and no such judgment,
41 sentence, or part thereof shall be deferred or
42 suspended.

43 f. A person in the immediate possession or control
44 of an offensive weapon, as defined in section 724.1,
45 while participating in a violation of this subsection,
46 shall be sentenced to three times the term otherwise
47 imposed by law, and no such judgment, sentence, or
48 part thereof shall be deferred or suspended.

49 2. It is unlawful for any person knowingly or
50 intentionally to possess a controlled substance,

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1 counterfeit substance, or simulated controlled
2 substance unless such substance was obtained directly
3 from or pursuant to a valid prescription or order of a
4 practitioner while acting in the course of the
5 practitioner's professional practice, or except as
6 otherwise authorized by this chapter. A person who
7 violates this subsection with respect to possession of
8 the following substances is guilty of the following:

9 a. Marijuana in an amount less than one ounce, is
10 guilty of a serious misdemeanor. Punishment shall be
11 imprisonment in the county jail for not more than six
12 months or a fine of not less than one hundred dollars
13 nor more than one thousand dollars, or by both such
14 imprisonment and fine.

15 b. Marijuana in an amount of one ounce or more, or
16 any amount of any other controlled substance
17 classified in schedule I, II, III, IV, or V is guilty
18 of an aggravated misdemeanor.

19 c. Any of the following controlled substances,
20 counterfeit substances, or simulated controlled
21 substances in the following amounts is guilty of a
22 class "D" felony:

23 (1) One hundred grams or more of a mixture or
24 substance containing a detectable amount of heroin.

25 (2) Five hundred grams or more of any of the
26 following:

27 (a) Coca leaves, except coca leaves and extracts
28 of coca leaves from which cocaine, ecgonine, and
29 derivatives of ecgonine or their salts have been
30 removed.

31 (b) Cocaine, its salts, optical and geometric
32 isomers, and salts of isomers.

33 (c) Ecgonine, its derivatives, their salts,
34 isomers, and salts of isomers.

35 (d) Any compound, mixture, or preparation which
36 contains any quantity of any of the substances
37 referred to in subparagraph subdivisions (a) through
38 (c).

39 (3) Five grams or more of a mixture or substance
40 described in subparagraph (2) which contains cocaine
41 base.

42 (4) Ten grams or more of phencyclidine (PCP) or
43 more than one hundred kilograms of a mixture or
44 substance containing a detectable amount of
45 phencyclidine (PCP).

46 (5) Ten grams or more of lysergic acid
47 diethylamide (LSD).

48 d. Marijuana in an amount of one ounce or more, or
49 any amount of any other controlled substance
50 classified in schedule I, II, III, IV, or V, if the

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1 person violating this subsection has previously been
2 convicted of a violation of the laws of this or any
3 other jurisdiction proscribing delivery, sale,
4 manufacturing, or possession with the intent to
5 deliver or manufacture any controlled substance,
6 counterfeit substance, or simulated controlled
7 substance, is guilty of a class "D" felony.

8 3. If the same person commits two or more acts
9 which are in violation of this section and the acts
10 occur in approximately the same location or time
11 period so that the acts can be attributed to a single
12 scheme, plan, or conspiracy, the acts may be
13 considered a single violation and the weight of the
14 controlled substances, counterfeit substances, or
15 simulated controlled substances involved may be
16 combined for purposes of charging the offender.

17 Sec. 2. Section 204.406, Code 1989, is amended by
18 striking the section and inserting in lieu thereof the
19 following:

20 204.406 DISTRIBUTION TO PERSON UNDER AGE EIGHTEEN.

21 1. A person who is eighteen years of age or older
22 who:

23 a. Unlawfully distributes a substance listed in
24 schedule I or II, which is a narcotic or cocaine, to a
25 person under eighteen years of age commits a class "B"
26 felony and shall serve a minimum term of confinement
27 of five years. However, if the substance was
28 distributed in or on, or within one thousand feet of,
29 the real property comprising a public or private
30 elementary or secondary school, the person shall serve
31 a minimum term of confinement of ten years.

32 b. Unlawfully distributes a controlled substance
33 other than a narcotic or cocaine listed in schedule I,
34 II, or III to a person under eighteen years of age who
35 is at least three years younger than the violator
36 commits a class "C" felony.

37 c. Unlawfully distributes a controlled substance
38 listed in schedule IV or V to a person under eighteen
39 years of age who is at least three years younger than
40 the violator commits an aggravated misdemeanor.

41 2. A person who is eighteen years of age or older
42 who:

43 a. Unlawfully distributes a counterfeit substance
44 listed in schedule I or II which is a narcotic or
45 cocaine, or a simulated controlled substance
46 represented to be a narcotic or cocaine classified in
47 schedule I or II, to a person under eighteen years of
48 age commits a class "B" felony. However, if the
49 substance was distributed in or on, or within one
50 thousand feet of, the real property comprising a

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1 public or private elementary or secondary school, the
2 person shall serve a minimum term of confinement of
3 ten years.

4 b. Unlawfully distributes a counterfeit substance
5 other than a narcotic or cocaine listed in schedule I,
6 II, or III, or a simulated controlled substance
7 represented to be any substance listed in schedule I,
8 II, or III, to a person under eighteen years of age
9 who is at least three years younger than the violator
10 commits a class "C" felony.

11 c. Unlawfully distributes a counterfeit substance
12 listed in schedule IV or V, or a simulated controlled
13 substance represented to be a substance listed in
14 schedule IV or V, to a person under eighteen years of
15 age who is at least three years younger than the
16 violator commits an aggravated misdemeanor.

17 3. It is unlawful for a person to deliver".

18 2. Page 1, by inserting after line 10, the
19 following:

20 Sec. _____. Section 204.409, subsection 1, Code
21 1989, is amended to read as follows:

22 1. Whenever a person who has not previously been
23 convicted of an offense under this chapter or an
24 offense under a state or federal statute relating to
25 narcotic drugs or cocaine, marijuana, or stimulant,
26 depressant, or hallucinogenic drugs, pleads guilty to
27 or is found guilty of possession of a controlled
28 substance under section 204.401, subsection 3 2, or is
29 sentenced pursuant to section 204.410, the court,
30 without entering a judgment of guilt and with the
31 consent of the accused, may defer further proceedings
32 and place the accused on probation upon terms and
33 conditions as it requires. When a person is placed on
34 probation under this subsection, the person's
35 appearance bond may be discharged at the discretion of
36 the court. Upon violation of a term or condition, the
37 court may enter an adjudication of guilt and proceed
38 as otherwise provided. Upon fulfillment of the terms
39 and conditions, the court shall discharge the person
40 and dismiss the proceedings against the person.
41 Discharge and dismissal under this section shall be
42 without court adjudication of guilt and is not a
43 conviction for purposes of this section or for
44 purposes of disqualifications or disabilities imposed
45 by law upon conviction of a crime, including the
46 additional penalties imposed for second or subsequent
47 convictions under section 204.410. Discharge and
48 dismissal under this section may occur only once with
49 respect to any person.

50 Sec. _____. Section 204.410, Code 1989, is amended

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1 to read as follows:

2 204.410 ACCOMMODATION OFFENSE.

3 In a prosecution for unlawful delivery or
4 possession with intent to deliver marijuana, if the
5 prosecution proves that the defendant violated the
6 provisions of section 204.401, subsection 1, by
7 proving that the defendant delivered or possessed with
8 intent to deliver one ounce or less of marijuana, the
9 defendant is guilty of an accommodation offense and
10 rather than being sentenced as if convicted for a
11 violation of section 204.401, subsection 1, paragraph
12 "b" "d", shall be sentenced as if convicted of a
13 violation of section 204.401, subsection 3 2. An
14 accommodation offense may be proved as an included
15 offense under a charge of delivering or possessing
16 with the intent to deliver marijuana in violation of
17 section 204.401, subsection 1. This section does not
18 apply to hashish, hashish oil, or other derivatives of
19 marijuana as defined in section 204.101, subsection
20 17.

21 Sec. _____. Section 204.411, subsection 3, Code 1989,
22 is amended to read as follows:

23 3. This section does not apply to offenses under
24 section 204.401, subsection 3 2.

25 Sec. _____. Section 204.413, unnumbered paragraph 1,
26 Code 1989, is amended to read as follows:

27 A person sentenced pursuant to section 204.401,
28 subsection 1, paragraph "~~a~~"-~~or~~"-~~b~~"-~~shall~~ is not be
29 eligible for parole until the person has served a
30 minimum period of confinement of one-third of the
31 maximum indeterminate sentence ~~prescribed by law~~
32 imposed by the court.

33 A person sentenced pursuant to section 204.401,
34 subsection 1, paragraph "e" or "f", is not eligible
35 for parole until the person has served a minimum
36 period of confinement of one-third of each term
37 imposed.

38 Sec. _____. Section 907.3, unnumbered paragraph 1,
39 Code 1989, is amended to read as follows:

40 Pursuant to section 901.5, the trial court may,
41 upon a plea of guilty, a verdict of guilty, or a
42 special verdict upon which a judgment of conviction
43 may be rendered, exercise any of the options contained
44 in subsections 1 and 2 of this section. However, this
45 section shall not apply to a forcible felony or
46 violations of section 204.401, subsection 1.

47 Sec. _____. Section 204.414, Code 1989, is
48 repealed."

49 3. Title page, by striking lines 1 and 2 and
50 inserting the following: "An Act prohibiting the

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1 unauthorized manufacture, delivery, possession with
2 intent to manufacture or deliver, or possession of a
3 controlled substance, a counterfeit substance, or a
4 simulated controlled substance, and providing
5 penalties."

6 4. By renumbering as necessary.

By TRENT of Muscatine	HERMANN of Scott
GARMAN of Story	TYRRELL of Iowa
KOENIGS of Mitchell	MAY of Worth
BRANSTAD of Winnebago	MAULSBY of Calhoon
MUHLBAUER of Crawford	LAGESCHULTE of Brammer
SHONING of Woodbury	HIBBARD of Madison
PAVICH of Pottawattamie	BLACK of Jasper
BANKS of Plymouth	VAN MAANEN of Mahaska
METCALF of Polk	BEAMAN of Clark
SVOBODA of Tama	SPENNER of Henry

H-3987 FILED APRIL 12, 1989

H-3989

1 Amend Senate File 315, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. ____ Section 204.406, subsection 1, Code
6 1989, is amended to read as follows:

7 1. A person who is eighteen years of age or over
8 who violates section 204.401, subsection 1, by
9 distributing a substance listed in schedule I or II,
10 which is a narcotic drug or cocaine, to a person under
11 eighteen years of age, is guilty of a class "B"
12 felony; ~~however, the and shall serve a minimum term of~~
13 ~~confinement of time-to-be-served-before-parole-may-be~~
14 ~~granted-is five years. However, if the substance was~~
15 ~~distributed in or on, or within one thousand feet of,~~
16 ~~the real property comprising a public or private~~
17 ~~elementary or secondary school, the person shall serve~~
18 ~~a minimum term of confinement of ten years. A person~~
19 who is eighteen years of age or over who violates
20 section 204.401, subsection 1, by distributing any
21 other controlled substance listed in schedule I, II,
22 or III to a person under eighteen years of age who is
23 at least three years younger than the violator is
24 guilty of a class "B" felony. A person who is
25 eighteen years of age or over who violates section
26 204.401, subsection 1 by distributing a controlled
27 substance listed in schedule IV or V to a person under
28 eighteen years of age who is at least three years
29 younger than the violator is guilty of an aggravated
30 misdemeanor.

31 2. By renumbering as necessary.

By CORBETT of Linn

H-3989 FILED APRIL 12, 1989