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SENATE FILE 2088
BY LIND

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

A BILL FOR

1 An Act relating to certain controlled substance offenses,
2 increases the criminal penalties concerning certain offenses
3 regarding cocaine and methamphetamine in smokable form,
4 establishing certain controlled substance offenses as
5 nonbailable offenses, providing that such offenses shall be
6 considered in establishing minimum sentences for repeat
7 offenders, and prohibiting deferred judgments and sentences
8 and suspended sentences for such controlled substance
9 offenders.

S.F. 2088

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

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1 Section 1. Section 204.401, subsection 1, paragraph b,
2 subparagraph (2), subparagraph subdivision (b), Code
3 Supplement 1989, is amended by striking the subdivision.

4 Sec. 2. Section 204.401, subsection 1, paragraph b, Code
5 Supplement 1989, is amended by adding the following new
6 subparagraphs:

7 NEW SUBPARAGRAPH. (7) More than one hundred grams but not
8 more than five kilograms of a mixture or substance containing
9 cocaine, its salts, optical and geometric isomers, and salts
10 of isomers.

11 NEW SUBPARAGRAPH. (8) Any compound, mixture, or
12 preparation which contains any quantity of methamphetamine,
13 its salts, isomers, and salts of isomers, in smokable form.

14 Sec. 3. Section 204.401, subsection 1, paragraph c,
15 subparagraph (1), Code Supplement 1989, is amended to read as
16 follows:

17 (1) One hundred grams or less of a mixture or substance
18 containing a detectable amount of heroin or cocaine, its
19 salts, optical and geometric isomers, and salts of isomers.

20 Sec. 4. Section 204.401, subsection 1, paragraph c,
21 subparagraph (2), subparagraph subdivision (b), Code
22 Supplement 1989, is amended by striking the subdivision.

23 Sec. 5. Section 811.1, subsections 1 and 2, Code
24 Supplement 1989, are amended to read as follows:

25 1. A defendant awaiting judgment of conviction and
26 sentencing following either a plea or verdict of guilty of a
27 class "A" felony, murder, felonious assault, sexual abuse in
28 the second degree, sexual abuse in the third degree,
29 kidnapping, robbery in the first degree, arson in the first
30 degree, or burglary in the first degree or a violation of
31 section 204.401, subsection 1, paragraph "a", "b", or "c".

32 2. A defendant appealing a conviction of a class "A"
33 felony, murder, felonious assault, sexual abuse in the second
34 degree, sexual abuse in the third degree, kidnapping, robbery
35 in the first degree, arson in the first degree, or burglary in

1 the first degree or a violation of section 204.401, subsection
2 1, paragraph "a", "b", or "c".

3 Sec. 6. Section 902.11, Code 1989, is amended to read as
4 follows:

5 902.11 MINIMUM SENTENCE -- ELIGIBILITY OF PRIOR ~~FORCIBLE~~
6 ~~FELONY~~ OFFENDER FOR PAROLE OR WORK RELEASE.

7 A person serving a sentence for conviction of a felony who
8 has a criminal record of one or more prior convictions for a
9 forcible felony, a violation of section 204.401, subsection 1,
10 paragraph "a", "b", or "c", or a crime of a similar gravity in
11 this or any other state, shall be denied parole or work
12 release unless the person has served at least one-half of the
13 maximum term of the defendant's sentence. However, the
14 mandatory sentence provided for by this section does not apply
15 if either of the following apply:

16 1. The sentence being served is for a felony other than a
17 forcible felony or a violation of section 204.401, subsection
18 1, paragraph "a", "b", or "c", and the sentences for the prior
19 ~~forcible-felony~~ offenses expired at least five years before
20 the date of conviction for the present felony.

21 2. The sentence being served is on a conviction for
22 operating a motor vehicle while under the influence of alcohol
23 or a drug under chapter 3215.

24 Sec. 7. Section 907.5, unnumbered paragraph 1, Code
25 Supplement 1989, is amended to read as follows:

26 Pursuant to section 901.5, the trial court may, upon a plea
27 of guilty, a verdict of guilty, or a special verdict upon
28 which a judgment of conviction may be rendered, exercise any
29 of the options contained in this section. However, this
30 section does not apply to a forcible felony or a violation of
31 section 204.401, subsection 1, paragraph "a", "b", or "c".

32 EXPLANATION

33 The bill changes the penalties for manufacture, delivery,
34 or possession with intent to manufacture or deliver, and
35 conspiracy to so manufacture, deliver, or possess certain

1 amounts of cocaine and its derivatives, as well as
2 methamphetamine in smokable form, commonly referred to as ice.
3 Under current law, such actions with respect to between 500
4 grams and 5 kilograms of cocaine and its derivatives are class
5 "B" felonies punishable as provided in section 204.401,
6 subsection 1, paragraph "b", and 500 grams or less of cocaine
7 and its derivatives are class "C" felonies punishable as
8 provided in section 204.401, subsection 1, paragraph "b". The
9 bill changes the amounts of cocaine punishable under these
10 paragraphs by providing that between 100 grams and 5 kilograms
11 is a class "B" felony, and under 100 grams is a class "C"
12 felony.

13 In addition, under current law, such actions involving
14 methamphetamine are covered pursuant to section 204.401,
15 subsection 1, paragraph "c", subparagraph (6) as a class "C"
16 felony. The bill provides that such actions taken concerning
17 any amount of methamphetamine in smokable form is a class "B"
18 felony punishable as provided in section 204.401, subsection
19 1, paragraph "b".

20 The bill establishes that the controlled substance
21 violations contained in Iowa Code section 204.401, subsection
22 1, paragraph "a", "b", or "c", are nonbailable offenses.

23 In addition, the bill treats prior convictions for
24 violations of section 204.401, subsection 1, paragraph "a",
25 "b", or "c", in the same manner as forcible felonies for
26 repeat offenders, by providing a minimum sentence before the
27 repeat offender is eligible for parole or work release. The
28 bill further prohibits these controlled substances offenders
29 from being eligible for deferred judgments, deferred
30 sentences, or suspended sentences.

31 This bill may include a state mandate as defined in section
32 25B.3.

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