

FILED APR 7 1971

Law Enforcement 4/29

SENATE FILE **468**

By COMMITTEE ON LAW ENFORCEMENT
(Committee on Judiciary)

Passed Senate, Date 4-28-71 Passed House, Date 5-14-71
Vote: Ayes 41 Nays 0 Vote: Ayes 78 Nays 1
Approved 5-27-71

A BILL FOR

1 An Act making additional amendments to the Code of Iowa in con-
2 formity to senate file 1 of the Sixty-fourth General Assembly,
3 updating certain references in the Code of Iowa, and making
4 corrective amendments relating to the imposition of a penalty
5 and other provisions in senate file 1 of the Sixty-fourth
6 General Assembly.

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

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1 Section 1. Section one hundred fifty-five point three
2 (155.3), subsection one (1), Code 1971, is amended as follows:

3 1. "Drugs and medicines" shall include all medicinal sub-
4 stances and preparations for internal or external use
5 recognized in the United States Pharmacopoeia or National
6 Formulary, and any substance or mixture of substances intended
7 to be used for the diagnosis, cure, mitigation, or prevention
8 of disease of either man or animals.

9 Sec. 2. Section one hundred fifty-five point thirteen
10 (155.13), subsection two (2), Code 1971, is amended as follows:

11 2. Conviction of an offense, or where a penalty or fine
12 has been invoked, for violation of chapter 147, chapter 203,
13 chapter 203A, ~~chapter-204~~ senate file 1, Acts of the Sixty-
14 fourth General Assembly, First Session, or the federal food,
15 drug and cosmetic Act. A plea or verdict of guilty, or a
16 conviction following a plea of nolo contendere, is deemed
17 to be a conviction within the meaning of this section.

18 Sec. 3. Section one hundred fifty-five point thirty
19 (155.30), Code 1971, is amended as follows:

20 155.30 PENALTIES. Any person who sells or offers for
21 sale, gives away, or administers to another person any
22 prescription drug shall be deemed guilty of violating the
23 provisions of this section or ~~any person~~ who violates any
24 provisions of section 155.29 ~~and-upon-conviction-thereof,~~
25 is guilty of a public offense.

26 If the prescription drug is a controlled substance as
27 defined in senate file 1, section 101, subsection 6, Acts
28 of the Sixty-fourth General Assembly, First Session, the
29 person shall be punished pursuant to sections 401, subsection
30 1, and 411 thereof. If the prescription drug is not a
31 controlled substance, the person shall upon conviction of
32 a first offense shall be fined not more than one thousand
33 dollars or be imprisoned in the county jail for not more than
34 one year, or both. For a second offense, or if in case of
35 a first conviction of violation of any provision of section

1 155.29 or of violation of any provision of this section, the
2 offender shall previously have been convicted of any violation
3 of the laws of the United States or of any state, territory,
4 or district thereof relating to prescription drugs, the
5 offender upon conviction shall be fined not more than two
6 thousand dollars and be imprisoned in the state penitentiary
7 not less than two or more than five years. For a third or
8 subsequent offense in violation of this section or in violation
9 of section 155.29, or if the offender shall previously have
10 been convicted two or more times in the aggregate of any
11 violation of the laws of the United States or of any state,
12 territory, or district thereof relating to prescription drugs,
13 the offender upon conviction shall be fined not more than
14 five thousand dollars and be imprisoned in the state
15 penitentiary not less than five or more than ten years.

16 Any person violating any provision of this chapter by
17 selling, giving away, or administering any prescription drug
18 to a minor shall upon conviction thereof be punished by im-
19 prisonment in the state penitentiary for not less than five
20 or more than twenty years.

21 Nothing in this section shall be construed to prevent a
22 licensed practitioner of medicine, dentistry, nursing, veter-
23 inary medicine, or pharmacy from such acts necessary in the
24 ethical and legal performance of his profession.

25 Sec. 4. Section one hundred fifty-five point thirty-four
26 (155.34), Code 1971, is amended as follows:

27 155.34 REFILLS LIMITED. No prescription for any prescrip-
28 tion drug which is not a controlled substance as defined in
29 senate file 1, section 101, subsection 6, Acts of the Sixty-
30 fourth General Assembly, First Session, shall be filled or
31 refilled more than one year after the date on which the
32 prescription was issued, and no prescription which is
33 authorized to be refilled shall be refilled more than eleven
34 times, ~~except when otherwise ordered by the practitioner on~~
35 ~~the original prescription;~~ provided however, no medical

1 practitioner shall be prohibited from issuing a new
2 prescription for the same drug either in writing or orally.

3 Sec. 5. Section one hundred sixty-nine point thirty-six
4 (169.36), subsection eight (8), Code 1971, is amended as
5 follows:

6 8. Distribution of alcohol or drugs or controlled sub-
7 stances, as defined in senate file 1, section 101, subsection
8 6, Acts of the Sixty-fourth General Assembly, First Session,
9 for any other than legitimate purposes.

10 Sec. 6. Section two hundred three point one (203.1), Code
11 1971, is amended as follows:

12 203.1 DEFINED. For the purposes of this chapter "drug"
13 shall include all substances and preparations for internal
14 or external use recognized in the United States Pharmacopoeia
15 or National Formulary and any substances or mixture of
16 substances intended to be used for the diagnosis, cure,
17 mitigation, or prevention of diseases of either man or animal.

18 Sec. 7. Section two hundred three A point ten (203A.10),
19 Code 1971, is amended by striking subsection thirteen (13).

20 Sec. 8. Section two hundred twenty-four A point one
21 (224A.1), subsection three (3), is amended as follows:

22 3. "Drug" means a narcotic-drug controlled substance as
23 defined in section-204A.17-subsection-107-and-a-depressant
24 or-stimulant-drug-as-defined-in-section-204A.17-subsection
25 6 senate file 1, section 101, subsection 6, Acts of the Sixty-
26 fourth General Assembly, First Session. For the purpose of
27 this chapter the provisions hereof shall be applicable to
28 the treatment and rehabilitation of those who are users of
29 glue by means of inhalation, commonly known as "glue sniffing".

30 Sec. 9. Section two hundred forty-seven point twenty
31 (247.20), unnumbered paragraph one (1), Code 1971, is amended
32 as follows:

33 The trial court before which any person has been convicted
34 of any crime, except for treason, murder, or violation of
35 ~~law-concerning-the-manufacturing7-selling7-administering-to~~

1 ~~another-person, or dispensing a narcotic drug~~ senate file
2 1, section 401, subsection 1 or 2, Acts of the Sixty-fourth
3 General Assembly, First Session, to which section 409,
4 subsection 2 thereof is not applicable and which is not proven
5 to be an accommodation offense under section 410 thereof,
6 may by record entry at time of or after sentence is pronounced
7 but before imprisonment, suspend the sentence and grant
8 probation to said person during good behavior. The said court
9 shall have authority by record entry to withhold execution
10 of any judgment or sentence for such time as shall be
11 reasonably necessary for an investigation with respect to
12 suspension of sentence and probation. The investigation shall
13 be made by a probation officer, by the agency in charge of
14 parole agents, or by another appropriate agency, as determined
15 by the court.

16 Sec. 10. Section two hundred seventy-nine point nine
17 (279.9), Code 1971, is amended as follows:

18 279.9 USE OF TOBACCO. Such rules shall prohibit the use
19 of tobacco ~~and other narcotics in any form~~ or any controlled
20 substance as defined in senate file 1, section 101, subsection
21 6, Acts of the Sixty-fourth General Assembly, First Session,
22 by any student of such schools and the board may suspend or
23 expel any student for any violation of such rule.

24 Sec. 11. Section three hundred twenty-one point two hundred
25 eighty-one (321.281), unnumbered paragraph two (2), Code 1971,
26 is amended as follows:

27 In lieu of, or prior to the imposition of, the punishment
28 above described for second offense, third offense and each
29 offense thereafter, the court upon hearing may commit the
30 defendant for treatment of alcoholism or drug addiction or
31 dependency to any hospital or institution in Iowa providing
32 such treatment. The court may prescribe the length of time
33 for such treatment or it may ~~be left to the discretion of~~
34 request that the hospital to which the person is committed
35 immediately report to the court when the person has received

1 maximum benefit from the program of the hospital or institution
2 or has recovered from his addiction, dependency or tendency
3 to chronically abuse alcohol or drugs. A person committed
4 under this section shall be considered a state patient.

5 Sec. 12. Section three hundred sixty-eight point seven
6 (368.7), subsection nine (9), Code 1971, is amended as follows:

7 9. GAMBLING HOUSES. Gambling houses, bawdy houses, dis-
8 orderly houses, houses of ill-fame, roadhouses where lewdness
9 is carried on, ~~opium-or-her-joints-or~~ places resorted to
10 for-the-use-of-opium-or-hasheesh by persons using controlled
11 substances, as defined in senate file 1, section 101,
12 subsection 6, Acts of the Sixty-fourth General Assembly, First
13 Session, in violation of law, and places where intoxicating
14 liquor is illegally kept, sold, or given away, and to punish
15 the keepers and inmates thereof, and persons resorting thereto,
16 and persons who, knowing the character or reputation of such
17 places, transport others to or from any of the above described
18 places.

19 Sec. 13. Section six hundred fifty-seven point two (657.2),
20 subsection six (6), Code 1971, is amended as follows:

21 6. Houses of ill fame, kept for the purpose of prostitution
22 and lewdness, gambling houses, or ~~houses~~ places resorted to
23 for-the-use-of-opium-or-hasheesh by persons using controlled
24 substances, as defined in senate file 1, section 101,
25 subsection 6, Acts of the Sixty-fourth General Assembly, First
26 Session, in violation of law, or houses where drunkenness,
27 quarreling, fighting, or breaches of the peace are carried
28 on or permitted to the disturbance of others.

29 Sec. 14. Section seven hundred thirty-two point eight
30 (732.8), Code 1971, is amended as follows:

31 732.8 DEPOSITING SAMPLES ON PORCHES. It shall be unlawful
32 for any person, firm, company, or corporation, either in
33 person or by agent, to deposit any sample of drugs or medicine
34 or any controlled substance, as defined in senate file 1,
35 section 101, subsection 6, Acts of the Sixty-fourth General

1 Assembly, First Session, upon any porch, lawns, in any vehicle,
2 or any other place where such drugs or medicine or controlled
3 substances might be picked up by children or other persons.

4 Sec. 15. Section seven hundred forty-five point fifteen
5 (745.15), Code 1971, is amended as follows:

6 745.15 AIDING ESCAPES--BRINGING LIQUOR OR DRUGS TO INMATES.
7 Any person not authorized by law, who shall bring or pass
8 or cause to be brought into any county jail, city jail, or
9 other place where persons may be committed or detained pursuant
10 to law, or any institution under the management of the board
11 of-control-of-state-institutions department of social services,
12 or onto the grounds of any such institution, or into any
13 enclosure, building, camp, quarry, farm, garden, or other
14 place used in connection with any such institution in which
15 prisoners, patients, or inmates are required or permitted
16 to be, any ~~opium, morphine, cocaine, amphetamine or any of~~
17 ~~its derivatives, or other narcotics~~ controlled substance,
18 as defined in senate file 1, section 101, subsection 6, Acts
19 of the Sixty-fourth General Assembly, First Session, or any
20 intoxicating liquor, or any firearm, weapon, or explosive
21 of any kind, or any rope, ladder, or other instrument or
22 device for use in making or attempting an escape, or shall
23 in any manner aid in such an escape, or who, knowing of such
24 escape, shall conceal such inmate after escape, shall be
25 punished by fine not exceeding one thousand dollars, or by
26 imprisonment in the penitentiary or reformatory for a term
27 not exceeding five years.

28 Sec. 16. Section seven hundred forty-five point sixteen
29 (745.16), Code 1971, is amended as follows:

30 745.16 PLACING DRUGS AND ARTICLES NEAR INSTITUTIONS.
31 Any person not duly authorized by law who shall place or cause
32 to be placed or aid in placing any of the drugs controlled
33 substances, liquors, weapons, explosives, or other articles
34 hereinbefore enumerated in or near any road, park, path, walk,
35 grove, hedge, or field where any prisoner, patient, or other

1 inmate of any county jail, city jail, or other place where
2 persons may be committed or detained pursuant to law, or any
3 ~~the-state-institutions~~ institution specified in section 745.15
4 is, or is likely to be, with intent that the drug controlled
5 substance, liquor, weapon, explosive, or other article so
6 placed shall be found by or shall pass into the possession
7 of any such prisoner, patient, or other inmate, shall be
8 punished by imprisonment in the penitentiary or reformatory
9 for a term not exceeding five years, or by a fine of not more
10 than one thousand dollars nor less than one hundred dollars.

11 Sec. 17. Senate File one (1), section two hundred one
12 (201), subsection four (4), Acts of the Sixty-fourth General
13 Assembly, First Session, is amended as follows:

14 4. If any new substance is designated as a controlled
15 substance under federal law and notice of the designation
16 is given to the board, the board shall similarly designate
17 as controlled the new substance under this Act after the
18 expiration of thirty days from publication in the Federal
19 Register of a final order designating a new substance as a
20 controlled substance, unless within that thirty-day period
21 the board objects to the new designation. In that case the
22 board shall publish the reasons for objection and afford all
23 interested parties an opportunity to be heard. At the con-
24 clusion of the hearing the board shall announce its decision
25 ~~which shall be final unless altered by statute~~. Upon
26 publication of objection to a new substance being designated
27 as a controlled substance under this Act by the board, control
28 under this Act is stayed until the board publishes its deci-
29 sion. If a substance is designated as controlled by the board
30 under this paragraph the control shall be temporary and, if
31 within sixty days after the next regular session of the gen-
32 eral assembly convenes it has not made the corresponding
33 changes in this Act, the temporary designation of control
34 of the substance by the board shall be nullified.

35 Sec. 18. Senate File one (1), section three hundred six

1 (306), unnumbered paragraph one (1), Acts of the Sixty-fourth
2 General Assembly, First Session, is amended as follows:

3 Sec. 306. RECORDS OF REGISTRANTS. Persons registered
4 to manufacture, distribute, dispense, or administer controlled
5 substances under this Act shall keep records and maintain
6 inventories in conformance with the record keeping and in-
7 ventory requirements of federal law and with such additional
8 rules as may be issued by the board. A practitioner who
9 engages in dispensing any controlled substance to his patients
10 shall keep records of receipt and disbursements of such drugs,
11 including dispensing or other disposition, and information
12 as to controlled substances stolen, lost, or destroyed. In
13 every such case the records of controlled substance received
14 shall show the date of receipt, the name and address of the
15 person from whom received, and the kind and quantity of drugs
16 received. The record of all controlled substances dispensed
17 or otherwise disposed of, shall show the date of dispensing,
18 the name and address of the person to whom or for whose use,
19 or the owner and species of animal for which, the drugs were
20 dispensed and the kind and quantity of drugs dispensed.

21 Sec. 19. Senate File one (1), section four hundred one
22 (401), subsection three (3), Acts of the Sixty-fourth General
23 Assembly, First Session, is amended as follows:

24 3. It is unlawful for any person knowingly or intentionally
25 to possess a controlled substance unless such substance was
26 obtained directly from, or pursuant to, a valid prescription
27 or order of a practitioner while acting in the course of his
28 professional practice, or except as otherwise authorized by
29 this Act. Any person who violates this subsection with-respect
30 to:

31 ~~a.--A-substance-classified-in-schedule-I-or-II-which-is~~
32 ~~a-narcotic-drug,-is-guilty-of-a-public-offense-and-upon-con-~~
33 ~~viction-shall-be-punished-by-imprisonment-in-the-penitentiary~~
34 ~~for-not-to-exceed-five-yea-or-in-the-county-jail-for-not~~
35 ~~to-exceed-one-year,-or-by-a-fine-of-not-more-than-one-thousand~~

1 ~~dollars, or by both such imprisonment and fine.~~
2 is guilty of a misdemeanor, and upon conviction shall be pun-
3 ished by imprisonment in the county jail for not to exceed
4 one year, or by a fine of not more than one thousand dollars,
5 or both such imprisonment and fine. If the controlled sub-
6 stance is marijuana, the punishment shall be by imprisonment
7 in the county jail for not more than six ~~(6)~~ months or by
8 a fine of not more than one thousand dollars ~~-($\$1,000$)~~, or
9 by both such fine and imprisonment. All or any part of a
10 sentence imposed pursuant to this section may be suspended
11 and the person placed upon probation upon such terms and
12 conditions as the court may impose including the active
13 participation by such person in a drug treatment, rehabilita-
14 tion or education program approved by the court.

15 Sec. 20. Senate File one (1), section five hundred ten
16 (510), unnumbered paragraph one (1), Acts of the Sixty-fourth
17 General Assembly, First Session, is amended as follows:

18 Sec. 510. Any peace officer who arrests for any crime,
19 any known unlawful user of the drugs described in Schedule
20 I, II, III, or IV, or who arrests any person for a violation
21 of this Act, or charges any person with a violation of this
22 Act subsequent to the person's arrest, shall within five days
23 after the arrest or the filing of the charge, whichever is
24 later, report the arrest and the charge filed to the
25 department. The peace officer or any other peace officer
26 or law-enforcement agency which makes or obtains any
27 quantitative or qualitative analysis of any substance seized
28 in connection with the arrest of the person charged, shall
29 report to the department the results of the analysis at the
30 time the arrest is reported or at such later time as the
31 results of the analysis become available.

32 Sec. 21. Section eighty point twenty-seven (80.27),
33 unnumbered paragraph one (1), Code 1971, as amended by Senate
34 File one (1), Acts of the Sixty-fourth General Assembly, First
35 Session, is amended as follows:

1 80.27 DRUG LAW ENFORCEMENT BY DEPARTMENT. The state
2 department of public safety shall be primarily responsible
3 for the enforcement of all laws and regulations relating to
4 any controlled substance or counterfeit substance, except
5 for making accountability audits of the supply and inventory
6 of controlled substances in the possession of pharmacists,
7 doctors, hospitals, ~~homes~~, and health care facilities as
8 defined in section 135C.1, subsection 8 of the Code, as well
9 as in the possession of any and all other individuals or
10 institutions authorized to have possession of any controlled
11 substances.

12 EXPLANATION

13 Sections 1 through 16 of this bill amend a number of
14 sections of the present Code of Iowa which it has been
15 suggested by the Governor's office and the Board of Pharmacy
16 Examiners should be updated in conformity with the new Uniform
17 Controlled Substances Act, adopted by Senate File 1 of the
18 present General Assembly.

19 Sections 17 through 21 are corrective amendments to Senate
20 File 1. Section 17 removes from section 201, subsection 4,
21 of Senate File 1 a phrase which is inconsistent with the rest
22 of that subsection. Section 19 removes from section 401,
23 subsection 3, of Senate File 1 language which was intended
24 to be removed by the Senate amendment to the House amendment
25 to Senate File 1. Sections 18, 20 and 21 make minor
26 grammatical improvements in three other sections of Senate
27 File 1.

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1 Amend Senate File 468 as follows:

2 Page 11, by adding after line 11 the following sec-

3 tions:

4 "Sec. 22. Senate File one (1), section two hundred
5 ten (210), subsection two (2), Acts of the Sixty-fourth
6 General Assembly, First Session, is amended by adding
7 the following:

8 'l. Librium.

9 m. Valium.'

10 Sec. 23. Senate File one (1), section four hundred
11 seven (407), Acts of the Sixty-fourth General Assembly,
12 First Session, is amended by adding after unnumbered
13 paragraph two (2) the following unnumbered paragraph:

14 'Any person who violates this section and where the
15 controlled substance is any one other than marijuana is
16 guilty of a public offense and upon conviction shall be
17 punished by imprisonment in the penitentiary for not to
18 exceed five years or by a fine of not to exceed ten
19 thousand dollars or by both such imprisonment and fine.'

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Filed
April 12, 1971

By GAUDINEER and MOWRY

1 Amend Senate File 468, page 1, by striking all of the title
2 after the word "Act" in line 1 and inserting in lieu thereof
3 the following: "relating to the regulation and control of
4 certain drugs and providing procedures for enforcement and
5 penalties and making additional amendments to the Code in
6 conformity with senate file one (1), Acts of the Sixty-fourth
7 General Assembly, First Session."

Filed - *adapted 4/28*
April 13, 1971

By THORSEN