

Judiciary and Law Enforcement: Rosenberg, Chair; Halvorson of Clayton, McKean, Tabor and Varn.

to Pass 3/23 (p. 1249)

FILED MAR 5 1984

SENATE FILE 2304

BY COMMITTEE ON JUDICIARY

(FORMERLY SSB 2229)

Approved 3/5 (p. 669)

Passed Senate, Date 3-8-84 (p. 728) Passed House, Date 3-28-84 (p. 1426)

Vote: Ayes 48 Nays 0 Vote: Ayes 96 Nays 0

Approved April 17, 1984 (p. 1668)

A BILL FOR

1 An Act relating to penalties for fraudulently obtaining,
2 manufacturing, delivering, or possessing with intent
3 to manufacture or deliver, a controlled substance.

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

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S. 2304

1 Section 1. Section 155.30, unnumbered paragraph 2, Code
2 1983, is amended to read as follows:

3 ~~¶~~ Except as otherwise provided in this paragraph, if the
4 prescription drug is a controlled substance as defined in
5 section 204.101, subsection 6, the person shall be punished
6 pursuant to section 204.401, subsection 1, and section 204.411.
7 If the person violates section 155.29, subsection 1, and the
8 prescription drug is a controlled substance, the person shall
9 be punished pursuant to section 204.403 and section 204.411.

10 PARAGRAPH DIVIDED. If the prescription drug is not a
11 controlled substance, the person ~~shall~~ is upon conviction
12 of a first offense ~~be~~ guilty of a serious misdemeanor. For
13 a second offense, or if in case of a first conviction of
14 violation of any provision of section 155.29 or of violation
15 of any provision of this section, the offender ~~shall~~ previously
16 have has been convicted of any violation of the laws of the
17 United States or of any state, territory, or district thereof
18 relating to prescription drugs, the offender ~~shall-be~~ is
19 guilty of an aggravated misdemeanor. For a third or subsequent
20 offense in violation of this section or in violation of section
21 155.29, or if the offender ~~shall~~ previously have has been
22 convicted two or more times in the aggregate of any violation
23 of the laws of the United States or of any state, territory,
24 or district thereof relating to prescription drugs, the
25 offender ~~shall-be~~ is guilty of a class "D" felony.

26 Sec. 2. Section 204.401, subsection 1, paragraph c, Code
27 1983, is amended to read as follows:

28 c. A substance classified in schedule IV or V, is guilty
29 of a serious misdemeanor.

30 Sec. 3. Section 204.401, subsection 1, paragraph d, Code
31 1983, is amended by striking the paragraph.

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EXPLANATION

33 Section 1 of this bill amends section 155.30 to provide
34 that violations of section 155.29, subsection 1 involving
35 controlled substances will be punished pursuant to section

1 204.403 (which covers similar offenses) instead of section
2 204.401, subsection 1. The first offense is a serious
3 misdemeanor.

4 Section 2 amends section 204.401, subsection 1 to increase
5 the penalty to a serious misdemeanor where the controlled
6 substance is in schedule V. This will apply to violations
7 of section 155.29, subsections 2 through 5 involving con-
8 trolled substances.

9 The bill takes effect July 1 following its enactment.

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SENATE FILE 2304

AN ACT
RELATING TO PENALTIES FOR FRAUDULENTLY OBTAINING, MANUFACTURING, DELIVERING, OR POSSESSING WITH INTENT TO MANUFACTURE OR DELIVER, A CONTROLLED SUBSTANCE.

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

Section 1. Section 155.30, unnumbered paragraph 2, Code 1983, is amended to read as follows:

¶ Except as otherwise provided in this paragraph, if the prescription drug is a controlled substance as defined in section 204.101, subsection 6, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411.

If the person violates section 155.29, subsection 1, and the prescription drug is a controlled substance, the person shall be punished pursuant to section 204.403 and section 204.411.

PARAGRAPH DIVIDED. If the prescription drug is not a controlled substance, the person shall ~~be~~ upon conviction of a first offense be guilty of a serious misdemeanor. For a second offense, or if in case of a first conviction of violation of any provision of section 155.29 or of violation of any provision of this section, the offender ~~shall~~ previously ~~have~~ has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~shall-be~~ is guilty of an aggravated misdemeanor. For a third or subsequent offense in violation of this section or in violation of section 155.29, or if the offender ~~shall~~ previously ~~have~~ has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~shall-be~~ is guilty of a class "D" felony.

Sec. 2. Section 204.401, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. A substance classified in schedule IV or V, is guilty of a serious misdemeanor.

Sec. 3. Section 204.401, subsection 1, paragraph d, Code 1983, is amended by striking the paragraph.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2304, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 17 1984

TERRY E. BRANSTAD
Governor

S.F. 2304