

MAR 5 1997

JUDICIARY

HOUSE FILE
BY FORD

438

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

A BILL FOR

1 An Act establishing mandatory penalties of confinement for peace
2 officers who commit certain controlled substance, counterfeit
3 controlled substance, or simulated controlled substance
4 offenses.

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

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HF 438

1 Section 1. Section 124.409, Code 1997, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 3. This section shall not apply to a
4 peace officer, as defined under section 801.4, who enters a
5 plea of guilty to or is found guilty of a violation of section
6 124.401 or 124.403.

7 Sec. 2. Section 124.413, Code 1997, is amended to read as
8 follows:

9 124.413 MANDATORY MINIMUM SENTENCE.

10 1. A Except as otherwise provided in subsection 2, a
11 person sentenced pursuant to section 124.401, subsection 1,
12 paragraph "a", "b", "c", "e", or "f", shall not be eligible
13 for parole until the person has served a minimum period of
14 confinement of one-third of the maximum indeterminate sentence
15 prescribed by law.

16 This section subsection shall not apply if:

17 ~~1-~~ a. The offense is found to be an accommodation pursuant
18 to section 124.410; or

19 ~~2-~~ b. The controlled substance is marijuana.

20 2. A person who is a peace officer, as defined under
21 section 801.4, who is convicted of a violation of section
22 124.401 or 124.403, shall not be eligible for parole or other
23 forms of release until the person has served a minimum term of
24 confinement equal to one-half of the applicable maximum term
25 of confinement.

26 Sec. 3. Section 901.10, Code 1997, is amended to read as
27 follows:

28 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

29 A Except for persons subject to section 124.413, subsection
30 2, a court sentencing a person for the person's first
31 conviction under section 124.406, 124.413, or 902.7 may, at
32 its discretion, sentence the person to a term less than
33 provided by the statute if mitigating circumstances exist and
34 those circumstances are stated specifically in the record.
35 However, the state may appeal the discretionary decision on

1 the grounds that the stated mitigating circumstances do not
2 warrant a reduction of the sentence.

3 Sec. 4. Section 907.3, unnumbered paragraph 1, Code 1997,
4 is amended to read as follows:

5 Pursuant to section 901.5, the trial court may, upon a plea
6 of guilty, a verdict of guilty, or a special verdict upon
7 which a judgment of conviction may be rendered, exercise any
8 of the options contained in this section. However, this
9 section does not apply to a forcible felony or to violations
10 of sections 124.401 or 124.403 which are committed by persons
11 who are peace officers as defined under section 801.4.

12 EXPLANATION

13 This bill establishes mandatory minimum terms of
14 confinement equal to one-half of the applicable maximum term
15 of confinement, which cannot be deferred or suspended, for
16 peace officers who singly, or together with one or more
17 persons, engage in the manufacturing or delivery, or who
18 possess with the intent to manufacture or deliver a controlled
19 substance, counterfeit substance, or simulated controlled
20 substance.

21 If the peace officer is convicted of the class "B" felony
22 of manufacturing or delivery, or possession with the intent to
23 manufacture or deliver offense with specified amounts of
24 controlled substances, the person is to be sentenced to a term
25 of confinement of up to 50 years and a fine of not more than
26 \$1 million. If the specified amounts are less, the person is
27 guilty of a class "B" felony and is to be sentenced to a term
28 of confinement of up to 25 years and a fine of not less than
29 \$5,000 nor more than \$100,000. If the peace officer is
30 convicted of the class "C" felony of manufacturing, delivery,
31 or possession with intent to manufacture or deliver offense,
32 the peace officer will be sentenced to a maximum term of
33 confinement of 10 years and may be fined at least \$1,000 but
34 not more than \$50,000. If the peace officer is convicted of
35 the class "D" felony offense, the peace officer will be

1 sentenced to a maximum term of confinement of no more than
2 five years and shall pay a fine of at least \$1,000 but not
3 more than \$5,000. If the peace officer is convicted of the
4 aggravated misdemeanor offense, the peace officer will be
5 sentenced to a maximum term of confinement of up to two years
6 and will be fined at least \$500 but not more than \$5,000. If
7 the peace officer is convicted of the serious misdemeanor
8 offense, the applicable maximum term is either one year and a
9 fine of at least \$250 but not more than \$1,500, or six months
10 or a fine of not more than \$1,000 if the offense involves
11 marijuana.

12 The bill also establishes mandatory minimum terms of
13 confinement equal to one-half of the applicable maximum term
14 of confinement, which cannot be deferred or suspended, for
15 peace officers who commit violations of the requirements
16 imposed on persons registered to prescribe, supply, or
17 distribute controlled substances. Violation of the
18 requirements pertaining to registrants is a serious
19 misdemeanor, punishable by imprisonment of not more than one
20 year and a possible fine of at least \$250 but not more than
21 \$1,500.

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