

11 safety, designated by the commissioner of public safety, may enter  
 12 at reasonable times any place or vehicle in which any controlled or  
 13 counterfeit substance is held, manufactured, dispensed, compounded,  
 14 processed, sold, delivered, or otherwise disposed of and inspect such  
 15 place or vehicle, and the contents thereof. For the purpose of en-  
 16 forcing laws relating to controlled or counterfeit substances, and  
 17 upon good cause shown, personnel of the division of drug law en-  
 18 forcement in the department of public safety shall be allowed to  
 19 inspect audits and records in the possession of the state board of  
 20 pharmacy examiners.

1 SEC. 611. Section eighty point thirty-four (80.34), Code 1971, is  
 2 amended as follows:

3 **80.34 Powers of peace officers.** Any authorized agent of the  
 4 department of public safety designated to conduct examinations,  
 5 investigations, or inspections and enforce the laws relating to con-  
 6 trolled or counterfeit substances shall have all the powers of other  
 7 peace officers and may arrest without warrant for offenses under  
 8 this chapter committed in his presence or, in the case of a felony,  
 9 if he has probable cause to believe that the person arrested has  
 10 committed or is committing such offense. Such officers shall have  
 11 the same powers as other peace officers to seize controlled substances  
 12 or articles used in the manufacture or sale of controlled substances  
 13 which they have reasonable grounds to believe are in violation of law.  
 14 Such controlled substances or articles shall be subject to condemna-  
 15 tion.

1 SEC. 612. If any phrase, clause, subsection or section of this Act  
 2 shall be declared unconstitutional or invalid by any court of compe-  
 3 tent jurisdiction, it shall be conclusively presumed that the legisla-  
 4 ture would have enacted this Act without the phrase, clause, sub-  
 5 section or section so held unconstitutional or invalid; and the remain-  
 6 der of this Act shall not be affected as a result of such part being held  
 7 unconstitutional or invalid.

Approved March 5, 1971.

## CHAPTER 149

### DRUG CONTROL

S. F. 468

AN ACT relating to the regulation and control of certain drugs and providing proce-  
 dures for enforcement and penalties and making additional amendments to the  
 Code in conformity with Senate File one (1),\* Acts of the Sixty-fourth General  
 Assembly, First Session.

*Be It Enacted by the General Assembly of the State of Iowa:*

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

3 1. "Drugs and medicines" shall include all medicinal substances

\*Ch. 148.

4 and preparations for internal or external use recognized in the United  
5 States Pharmacopoeia or National Formulary, and any substance or  
6 mixture of substances intended to be used for the *diagnosis*, cure,  
7 mitigation, or prevention of disease of either man or animals.

1 SEC. 2. Section one hundred fifty-five point thirteen (155.13), sub-  
2 section two (2), Code 1971, is amended as follows:

3 2. Conviction of an offense, or where a penalty or fine has been  
4 invoked, for violation of chapter 147, chapter 203, chapter 203A,  
5 [chapter 204] *senate file 1, Acts of the Sixty-fourth General Assembly,*  
6 *First Session*, or the federal food, drug and cosmetic Act. A plea or  
7 verdict of guilty, or a conviction following a plea of *nolo contendere*,  
8 is deemed to be a conviction within the meaning of this section.

1 SEC. 3. Section one hundred fifty-five point thirty (155.30), Code  
2 1971, is amended as follows:

3 **155.30 Penalties.** Any person who sells or offers for sale, gives  
4 away, or administers to another person any prescription drug shall  
5 be deemed guilty of violating the provisions of this section or [any  
6 person] who violates any provisions of section 155.29 [and upon con-  
7 viction thereof,] *is guilty of a public offense.*

8 *If the prescription drug is a controlled substance as defined in sen-*  
9 *ate file 1, section 101, subsection 6, Acts of the Sixty-fourth General*  
10 *Assembly, First Session, the person shall be punished pursuant to sec-*  
11 *tions 401, subsection 1, and 411 thereof. If the prescription drug is*  
12 *not a controlled substance, the person shall upon conviction of a first*  
13 *offense [shall] be fined not more than one thousand dollars or be im-*  
14 *prisoned in the county jail for not more than one year, or both. For*  
15 *a second offense, or if in case of a first conviction of violation of any*  
16 *provision of section 155.29 or of violation of any provision of this sec-*  
17 *tion, the offender shall previously have been convicted of any violation*  
18 *of the laws of the United States or of any state, territory, or district*  
19 *thereof relating to prescription drugs, the offender upon conviction*  
20 *shall be fined not more than two thousand dollars and be imprisoned*  
21 *in the state penitentiary not less than two or more than five years.*  
22 *For a third or subsequent offense in violation of this section or in vio-*  
23 *lation of section 155.29, or if the offender shall previously have been*  
24 *convicted two or more times in the aggregate of any violation of the*  
25 *laws of the United States or of any state, territory, or district there-*  
26 *of relating to prescription drugs, the offender upon conviction shall*  
27 *be fined not more than five thousand dollars and be imprisoned in the*  
28 *state penitentiary not less than five or more than ten years.*

29 Any person violating any provision of this chapter by selling, giv-  
30 ing away, or administering any prescription drug to a minor shall  
31 upon conviction thereof be punished by imprisonment in the state  
32 penitentiary for not less than five or more than twenty years.

33 Nothing in this section shall be construed to prevent a licensed prac-  
34 titioner of medicine, dentistry, nursing, veterinary medicine, or phar-  
35 macy from such acts necessary in the ethical and legal performance  
36 of his profession.

1 SEC. 4. Section one hundred fifty-five point thirty-four (155.34),  
2 Code 1971, is amended as follows:

3 **155.34 Refills limited.** No prescription for any prescription drug

4 *which is not a controlled substance as defined in senate file 1, section*  
 5 *101, subsection 6, Acts of the Sixty-fourth General Assembly, First*  
 6 *Session, shall be filled or refilled more than one year after the date on*  
 7 *which the prescription was issued, and no prescription which is au-*  
 8 *thorized to be refilled shall be refilled more than eleven times[, ex-*  
 9 *cept when otherwise ordered by the practitioner on the original pre-*  
 10 *scription]; provided however, no medical practitioner shall be pro-*  
 11 *hibited from issuing a new prescription for the same drug either in*  
 12 *writing or orally.*

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

3 8. Distribution of alcohol or drugs *or controlled substances, as de-*  
 4 *defined in senate file 1, section 101, subsection 6, Acts of the Sixty-*  
 5 *fourth General Assembly, First Session, for any other than legitimate*  
 6 *purposes.*

1 SEC. 6. Section two hundred three point one (203.1), Code 1971,  
 2 is amended as follows:

3 203.1 **Defined.** For the purposes of this chapter "drug" shall in-  
 4 clude all substances and preparations for internal or external use rec-  
 5 ognized in the United States Pharmacopoeia or National Formulary  
 6 and any substances or mixture of substances intended to be used for  
 7 the *diagnosis*, cure, mitigation, or prevention of diseases of either man  
 8 or animal.

1 SEC. 7. Section two hundred three A point ten (203A.10), Code  
 2 1971, is amended by striking subsection thirteen (13).

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

3 3. "Drug" means a [narcotic drug] *controlled substance* as defined  
 4 in [section 204.1, subsection 10, and a depressant or stimulant drug  
 5 as defined in section 204A.1, subsection 6] *senate file 1, section 101,*  
 6 *subsection 6, Acts of the Sixty-fourth General Assembly, First Ses-*  
 7 *sion.* For the purpose of this chapter the provisions hereof shall be  
 8 applicable to the treatment and rehabilitation of those who are users  
 9 of glue by means of inhalation, commonly known as "glue sniffing".

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

3 The trial court before which any person has been convicted of any  
 4 crime, except for treason, murder, or violation of [law concerning the  
 5 manufacturing, selling, administering to another person, or dispens-  
 6 ing a narcotic drug] *senate file 1, section 401, subsection 1 or 2, Acts of*  
 7 *the Sixty-fourth General Assembly, First Session, to which section 409,*  
 8 *subsection 2 thereof is not applicable and which is not proven to be an*  
 9 *accommodation offense under section 410 thereof, may by record entry*  
 10 *at time of or after sentence is pronounced but before imprisonment,*  
 11 *suspend the sentence and grant probation to said person during good*  
 12 *behavior. The said court shall have authority by record entry to*  
 13 *withhold execution of any judgment or sentence for such time as shall*  
 14 *be reasonably necessary for an investigation with respect to suspen-*  
 15 *sion of sentence and probation. The investigation shall be made by*

16 a probation officer, by the agency in charge of parole agents, or by  
17 another appropriate agency, as determined by the court.

1 SEC. 10. Section two hundred seventy-nine point nine (279.9),  
2 Code 1971, is amended as follows:

3 **279.9 Use of tobacco.** Such rules shall prohibit the use of tobacco  
4 [and other narcotics in any form] *or any controlled substance as de-*  
5 *defined in senate file 1, section 101, subsection 6, Acts of the Sixty-fourth*  
6 *General Assembly, First Session, by any student of such schools and*  
7 *the board may suspend or expel any student for any violation of such*  
8 *rule.*

1 SEC. 11. Section three hundred twenty-one point two hundred  
2 eighty-one (321.281), unnumbered paragraph two (2), Code 1971, is  
3 amended as follows:

4 In lieu of, or prior to the imposition of, the punishment above de-  
5 scribed for second offense, third offense and each offense thereafter,  
6 the court upon hearing may commit the defendant for treatment of  
7 alcoholism *or drug addiction or dependency* to any hospital or institu-  
8 tion in Iowa providing such treatment. The court may prescribe the  
9 length of time for such treatment or it may [be left to the discretion  
10 of] *request that the hospital to which the person is committed imme-*  
11 *diately report to the court when the person has received maximum*  
12 *benefit from the program of the hospital or institution or has recover-*  
13 *ered from his addiction, dependency or tendency to chronically abuse*  
14 *alcohol or drugs.* A person committed under this section shall be con-  
15 sidered a state patient.

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

3 **9. Gambling houses.** Gambling houses, bawdy houses, disorderly  
4 houses, houses of ill-fame, roadhouses where lewdness is carried on,  
5 [opium or hop joints or] places resorted to [for the use of opium or  
6 hasheesh] *by persons using controlled substances, as defined in senate*  
7 *file 1, section 101, subsection 6, Acts of the Sixty-fourth General As-*  
8 *sembly, First Session, in violation of law, and places where intoxicat-*  
9 *ing liquor is illegally kept, sold, or given away, and to punish the*  
10 *keepers and inmates thereof, and persons resorting thereto, and per-*  
11 *sons who, knowing the character or reputation of such places, trans-*  
12 *port others to or from any of the above described places.*

1 SEC. 13. Section six hundred fifty-seven point two (657.2), sub-  
2 section six (6), Code 1971, is amended as follows:

3 **6.** Houses of ill fame, kept for the purpose of prostitution and lewd-  
4 ness, gambling houses, or [houses] *places* resorted to [for the use of  
5 opium or hasheesh] *by persons using controlled substances, as defined*  
6 *in senate file 1, section 101, subsection 6, Acts of the Sixty-fourth*  
7 *General Assembly, First Session, in violation of law, or houses where*  
8 *drunkenness, quarreling, fighting, or breaches of the peace are carried*  
9 *on or permitted to the disturbance of others.*

1 SEC. 14. Section seven hundred thirty-two point eight (732.8),  
2 Code 1971, is amended as follows:

3 **732.8 Depositing samples on porches.** It shall be unlawful for any  
4 person, firm, company, or corporation, either in person or by agent, to

5 deposit any sample of drugs or medicine or any controlled substance,  
6 as defined in senate file 1, section 101, subsection 6, Acts of the Sixty-  
7 fourth General Assembly, First Session, upon any porch, lawns, in any  
8 vehicle, or any other place where such drugs or medicine or controlled  
9 substances might be picked up by children or other persons.

1 SEC. 15. Section seven hundred forty-five point fifteen (745.15),  
2 Code 1971, is amended as follows:

3 745.15 **Aiding escapes—bringing liquor or drugs to inmates.** Any  
4 person not authorized by law, who shall bring or pass or cause to be  
5 brought into any county jail, city jail, or other place where persons  
6 may be committed or detained pursuant to law, or any institution  
7 under the management of the [board of control of state institutions]  
8 department of social services, or onto the grounds of any such insti-  
9 tution, or into any enclosure, building, camp, quarry, farm, garden, or  
10 other place used in connection with any such institution in which  
11 prisoners, patients, or inmates are required or permitted to be, any  
12 [opium, morphine, cocaine, amphetamine or any of its derivatives, or  
13 other narcotics] controlled substance, as defined in senate file 1, sec-  
14 tion 101, subsection 6, Acts of the Sixty-fourth General Assembly, First  
15 Session, or any intoxicating liquor, or any firearm, weapon, or explo-  
16 sive of any kind, or any rope, ladder, or other instrument or device  
17 for use in making or attempting an escape, or shall in any manner aid  
18 in such an escape, or who, knowing of such escape, shall conceal such  
19 inmate after escape, shall be punished by fine not exceeding one thou-  
20 sand dollars, or by imprisonment in the penitentiary or reformatory  
21 for a term not exceeding five years.

1 SEC. 16. Section seven hundred forty-five point sixteen (745.16),  
2 Code 1971, is amended as follows:

3 745.16 **Placing drugs and articles near institutions.** Any person  
4 not duly authorized by law who shall place or cause to be placed or  
5 aid in placing any of the [drugs] controlled substances, liquors, weap-  
6 ons, explosives, or other articles hereinbefore enumerated in or near  
7 any road, park, path, walk, grove, hedge, or field where any prisoner,  
8 patient, or other inmate of any county jail, city jail, or other place  
9 where persons may be committed or detained pursuant to law, or any  
10 [the state institutions] institution specified in section 745.15 is, or is  
11 likely to be, with intent that the [drug] controlled substance, liquor,  
12 weapon, explosive, or other article so placed shall be found by or  
13 shall pass into the possession of any such prisoner, patient, or other  
14 inmate, shall be punished by imprisonment in the penitentiary or re-  
15 formatory for a term not exceeding five years, or by a fine of not more  
16 than one thousand dollars nor less than one hundred dollars.

1 SEC. 17. Senate File one (1), section two hundred one (201), sub-  
2 section four (4), Acts of the Sixty-fourth General Assembly, First  
3 Session, is amended as follows:

4 4. If any new substance is designated as a controlled substance  
5 under federal law and notice of the designation is given to the board,  
6 the board shall similarly designate as controlled the new substance  
7 under this Act after the expiration of thirty days from publication in  
8 the Federal Register of a final order designating a new substance as  
9 a controlled substance, unless within that thirty-day period the board

10 objects to the new designation. In that case the board shall publish  
11 the reasons for objection and afford all interested parties an oppor-  
12 tunity to be heard. At the conclusion of the hearing the board shall  
13 announce its decision [which shall be final unless altered by statute].  
14 Upon publication of objection to a new substance being designated  
15 as a controlled substance under this Act by the board, control under  
16 this Act is stayed until the board publishes its decision. If a substance  
17 is designated as controlled by the board under this paragraph the  
18 control shall be temporary and, if within sixty days after the next reg-  
19 ular session of the general assembly convenes it has not made the  
20 corresponding changes in this Act, the temporary designation of  
21 control of the substance by the board shall be nullified.

1 SEC. 18. Senate File one (1), section three hundred six (306),  
2 unnumbered paragraph one (1), Acts of the Sixty-fourth General  
3 Assembly, First Session, is amended as follows:

4 SEC. 306. **Records of registrants.** Persons registered to manu-  
5 facture, distribute, dispense, or administer controlled substances  
6 under this Act shall keep records and maintain inventories in con-  
7 formance with the record keeping and inventory requirements of  
8 federal law and with such additional rules as may be issued by the  
9 board. A practitioner who engages in dispensing any controlled sub-  
10 stance to his patients shall keep records of receipt and disbursements  
11 of such drugs, including dispensing or other disposition, and infor-  
12 mation as to controlled substances stolen, lost, or destroyed. In every  
13 such case the records of controlled substance received shall show the  
14 date of receipt, the name and address of the person from whom re-  
15 ceived, and the kind and quantity of drugs received. The record of  
16 all controlled substances dispensed or otherwise disposed of, shall  
17 show the date of dispensing, the name and address of the person to  
18 whom or for whose use, or the owner and species of animal for  
19 which[,] the drugs were dispensed and the kind and quantity of  
20 drugs *dispensed*.

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

4 3. It is unlawful for any person knowingly or intentionally to pos-  
5 sess a controlled substance unless such substance was obtained direct-  
6 ly from, or pursuant to, a valid prescription or order of a practitioner  
7 while acting in the course of his professional practice, or except as  
8 otherwise authorized by this Act. Any person who violates this sub-  
9 section [with respect to:]

10 [a. A substance classified in schedule I or II which is a narcotic  
11 drug, is guilty of a public offense and upon conviction shall be pun-  
12 ished by imprisonment in the penitentiary for not to exceed five years  
13 or in the county jail for not to exceed one year, or by a fine of not more  
14 than one thousand dollars, or by both such imprisonment and fine.]  
15 is guilty of a misdemeanor, and upon conviction shall be punished by  
16 imprisonment in the county jail for not to exceed one year, or by a  
17 fine of not more than one thousand dollars, or both such imprison-  
18 ment and fine. If the controlled substance is marijuana, the punish-  
19 ment shall be by imprisonment in the county jail for not more than  
20 six [(6)] months or by a fine of not more than one thousand dollars

21 [(\$1,000)], or by both such fine and imprisonment. All or any part  
 22 of a sentence imposed pursuant to this section may be suspended and  
 23 the person placed upon probation upon such terms and conditions as  
 24 the court may impose including the active participation by such per-  
 25 son in a drug treatment, rehabilitation or education program approved  
 26 by the court.

1 SEC. 20. Senate File one (1), section five hundred ten (510), un-  
 2 numbered paragraph one (1), Acts of the Sixty-fourth General Assem-  
 3 bly, First Session, is amended as follows:

4 SEC. 510. Any peace officer who arrests for any crime, any known  
 5 unlawful user of the drugs described in Schedule I, II, III[,] or IV, or  
 6 who arrests any person for a violation of this Act, or charges any  
 7 person with a violation of this Act subsequent to the person's arrest,  
 8 shall within five days after the arrest or the filing of the charge,  
 9 whichever is later, report the arrest and the charge filed to the depart-  
 10 ment. The peace officer or any other peace officer or law-enforcement  
 11 agency which makes or obtains any quantitative or qualitative analy-  
 12 sis of any substance seized in connection with the arrest of the person  
 13 charged, shall report to the department the results of the analysis at  
 14 the time the arrest is reported or at such later time as the results of  
 15 the analysis become available.

1 SEC. 21. Section eighty point twenty-seven (80.27), unnumbered  
 2 paragraph one (1), Code 1971, as amended by Senate File one (1),  
 3 Acts of the Sixty-fourth General Assembly, First Session, is amended  
 4 as follows:

5 **80.27 Drug law enforcement by department.** The state depart-  
 6 ment of public safety shall be primarily responsible for the enforce-  
 7 ment of all laws and regulations relating to any controlled substance  
 8 or counterfeit substance, except for making accountability audits of  
 9 the supply and inventory of controlled substances in the possession  
 10 of pharmacists, doctors, hospitals, [homes,] and health care facilities  
 11 as defined in section 135C.1, subsection 8 of the Code, as well as in  
 12 the possession of any and all other individuals or institutions author-  
 13 ized to have possession of any controlled substances.

1 SEC. 22. Senate File one (1), section four hundred seven (407),  
 2 Acts of the Sixty-fourth General Assembly, First Session, is amended  
 3 by adding after unnumbered paragraph two (2) the following unnum-  
 4 bered paragraph:

5 "Any person who violates this section and where the controlled sub-  
 6 stance is any one other than marijuana is guilty of a public offense  
 7 and upon conviction shall be punished by imprisonment in the peni-  
 8 tentiary for not to exceed five years or by a fine of not to exceed ten  
 9 thousand dollars or by both such imprisonment and fine."

Approved May 27, 1971.