

HOUSE BILL NO. 301

INTRODUCED BY D. BAUM, D. HAWK, E. KERR-CARPENTER, K. ZOLNIKOV, S. ESSMANN, S. VINTON, T. MOORE, L. BREWSTER, B. MERCER, N. NICOL, K. SEEKINS-CROWE, G. OBLANDER, M. YAKAWICH, C. FRIEDEL, J. ETCHART, L. DEMING, N. DURAM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DANGEROUS DRUGS; PROVIDING PENALTIES FOR POSSESSING OR USING A WEAPON IN THE COMMISSION OF CERTAIN DRUG CRIMES; AND AMENDING SECTIONS 45-9-101 AND 45-9-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102.

(3) (a) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (1), (2), (4), or (5) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined an amount of not more than \$50,000, or both.

(b) If the provisions of 46-1-401 have been complied with, a person who has been found guilty of this offense and who, while engaged in the commission of the offense, knowingly possessed or used a firearm, a destructive device as defined in 45-8-332, or another dangerous weapon shall, in addition to the penalty provided for the commission of the underlying offense, be sentenced to a term of imprisonment in the state prison of not less than 2 years or more than 10 years, except as provided in 46-18-222.

(4) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40 years and may be fined not more than \$50,000.

(b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term not to exceed life and may be fined not more than \$50,000.

(5) If the offense charged results in the death of an individual from the use of any dangerous drug that was distributed, the person shall be imprisoned in the state prison for a term of not more than 100 years and may be fined not more than \$100,000.

(6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 2. Section 45-9-103, MCA, is amended to read:

"45-9-103. Criminal possession with intent to distribute. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101 ~~in an amount~~ in an amount greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) (a) A person convicted of criminal possession with intent to distribute shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(b) If the provisions of 46-1-401 have been complied with, a person who has been found guilty of this offense and who, while engaged in the commission of the offense, knowingly possessed or used a firearm, a destructive device as defined in 45-8-332, or another dangerous weapon shall, in addition to the penalty provided for the commission of the underlying offense, be sentenced to a term of imprisonment in the state prison of not less than 2 years or more than 10 years, except as provided in 46-18-222.

(3) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

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