

(b) Review the draft rules, enforcement plan and proposed budget with the interagency task force on coordination of special transportation service. The commissioner shall adopt the rules necessary to implement this section and commence enforcement of those rules not later than July 1, 1980.

Subd. 6. **PREEMPTION OF OTHER REQUIREMENTS.** Notwithstanding any other law, ordinance or resolution to the contrary, an operator of special transportation service that has been issued a current certificate of compliance under subdivision 4 for a vehicle used to provide that service shall is not be required to obtain any other state or local permit, license or certificate as a condition of operating the vehicle for that purpose. This subdivision does not exempt any vehicle from the requirements imposed on vehicles generally as a condition of using the public streets and highways.

Subd. 7. **ENFORCEMENT.** ~~After January 1, 1981,~~ No state agency, political subdivision or other public agency shall provide any capital or operating assistance to or reimbursement for services rendered by any operator of special transportation service unless current certificates of compliance have been issued under subdivision 4 for the vehicles used by the operator to provide the service.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Approved March 22, 1982

CHAPTER 557 — S.F.No. 1758

An act relating to crimes; prohibiting conspiracies to violate controlled substances laws; allowing use of forfeited property; prohibiting the manufacture, delivery, possession, or advertising of drug paraphernalia; providing for civil forfeiture of drug paraphernalia; clarifying the crime of escape from jail; prescribing penalties; amending Minnesota Statutes 1980, Sections 152.01, by adding a subdivision; 152.19, Subdivisions 1, 3, and 5; and 609.485, Subdivision 3; proposing new law coded in Chapter 152.

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

Section 1. Minnesota Statutes 1980, Section 152.01, is amended by adding a subdivision to read:

Subd. 18. DRUG PARAPHERNALIA. “Drug paraphernalia” means all equipment, products, and materials of any kind which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 2. [152.092] POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

Sec. 3. [152.093] MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. Any violation of this section is a misdemeanor.

Sec. 4. [152.094] DELIVERY OF DRUG PARAPHERNALIA TO A MINOR PROHIBITED.

Any person 18 years of age or older who violates section 3 by knowingly or intentionally delivering drug paraphernalia to a person under 18 years of age who is at least three years his junior is guilty of a gross misdemeanor.

Sec. 5. [152.095] ADVERTISEMENT OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to place in any newspaper, magazine, handbill, or other publication any advertisement or promotion for the sale of drug paraphernalia. A violation of this section is a misdemeanor.

Sec. 6. [152.096] CONSPIRACIES PROHIBITED.

Subdivision 1. PROHIBITED ACTS; PENALTIES. Any person who conspires to commit any act prohibited by section 152.09, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Subd. 2. CONVICTION OF CO-CONSPIRATOR NOT REQUIRED. A person liable under this section may be charged with and convicted of conspiracy although the person or persons with whom he conspired have not been convicted or have been convicted of some other crime based on the same act.

Sec. 7. Minnesota Statutes 1980, Section 152.19, Subdivision 1, is amended to read:

Subdivision 1. The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this chapter;

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(2) All raw materials, moneys, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a primary container for property described in clauses (1) or (2);

(4) All drug paraphernalia as defined by section 1;

(5) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in clauses (1) or (2) having a retail value of \$100 or more, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter.

(b) No conveyance is subject to forfeiture under this section unless the owner thereof is privy to a violation of this chapter, or that the use of the conveyance in such violation otherwise occurred with his knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party unless he had knowledge of or consented to the act or omission upon which the forfeiture is based.

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

Sec. 8. Minnesota Statutes 1980, Section 152.19, Subdivision 3, is amended to read:

Subd. 3. In the event of a conviction for a gross misdemeanor or a misdemeanor, any conveyance seized pursuant to subdivision 1, clause (4) (5) of this section or any moneys seized pursuant to subdivision 1, clause (2) of this section, shall be returned to the person legally entitled thereto.

Sec. 9. Minnesota Statutes 1980, Section 152.19, Subdivision 5, is amended to read:

Subd. 5. Property shall be forfeited after a conviction deemed to be a felony according to the following procedure:

(1) A separate complaint shall be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use.

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(2) If the person arrested is acquitted, the court shall dismiss the complaint against any property seized pursuant to the preceding subdivisions and order the property returned to the persons legally entitled to it.

(3) If after conviction the court finds that the property, or any part thereof, was used in any violation as specified in the complaint, it shall order that the property unlawfully used be sold, destroyed, or disposed of by the appropriate state agency in the following manner:

(a) The appropriate agency may retain the property for official use but shall not use any motor vehicle required to be registered pursuant to chapter 168A until title is properly transferred pursuant to chapter 168A;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(b) (c) Require the commissioner of administration to take custody of the property and remove it for disposition in accordance with law; or

(e) (d) Forward it to the federal bureau of narcotics and dangerous drugs drug enforcement administration.

Any property retained pursuant to clause (3)(a) of this subdivision shall be used only in the performance of official duties of the appropriate agency, and shall not be used for any other purpose. All proceeds from property retained under clause (3)(a) of this subdivision which is later sold shall be disbursed as provided in clause (4) of this subdivision.

(4) Proceeds from the sale of forfeited property, after payment of seizure, storage, and sale expenses and satisfaction of valid liens against the property, shall be forwarded to the state drug abuse authority for distribution of half of the net proceeds among licensed hospitals and licensed drug treatment facilities of this state for the care and treatment of patients with drug related physical and psychological disorders, and licensed drug analysis centers. The remaining half of net proceeds shall be returned to the appropriate state agency.

Sec. 10. Minnesota Statutes 1980, Section 609.485, Subdivision 3, is amended to read:

Subd. 3. **EXCEPTIONS.** This section does not apply to a person who is free on bail or who is on parole or probation, or subject to a stayed sentence or stayed execution of sentence, unless he (1) has been taken into actual custody upon revocation of the parole, probation, or stay of the sentence or execution of sentence, or (2) is in custody in a county jail or workhouse as a condition of a stayed sentence.

Sec. 11. [152.205] LOCAL REGULATIONS.

Sections 1 to 5, 7, and 8 do not pre-empt enforcement or preclude adoption of municipal or county ordinances prohibiting or otherwise regulating the manufacture, delivery, possession or advertisement of drug paraphernalia.

Approved March 22, 1982

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