

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 99

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING SENTENCES FOR TRAFFICKING OF CONTROLLED
3 SUBSTANCES.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 37-2732B, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 37-2732B. TRAFFICKING -- ~~MANDATORY~~ SENTENCES. (a) Except as au-
9 thorized in this chapter, and notwithstanding the provisions of section
10 37-2732, Idaho Code:

11 (1) Any person who knowingly manufactures, delivers, or brings into
12 this state, or who is knowingly in actual or constructive possession
13 of, one (1) pound of marijuana or more, or twenty-five (25) marijuana
14 plants or more, as defined in section 37-2701, Idaho Code, is guilty of
15 a felony, which felony shall be known as "trafficking in marijuana." If
16 the quantity of marijuana involved:

17 (A) Is one (1) pound or more, but less than five (5) pounds, or con-
18 sists of twenty-five (25) marijuana plants or more but fewer than
19 fifty (50) marijuana plants, regardless of the size or weight of
20 the plants, such person shall be sentenced to a ~~mandatory~~ minimum
21 fixed term of imprisonment of one (1) year and fined not less than
22 five thousand dollars (\$5,000);

23 (B) Is five (5) pounds or more, but less than twenty-five (25)
24 pounds, or consists of fifty (50) marijuana plants or more but
25 fewer than one hundred (100) marijuana plants, regardless of the
26 size or weight of the plants, such person shall be sentenced to a
27 ~~mandatory~~ minimum fixed term of imprisonment of three (3) years
28 and fined not less than ten thousand dollars (\$10,000);

29 (C) Is twenty-five (25) pounds or more, or consists of one hundred
30 (100) marijuana plants or more, regardless of the size or weight
31 of the plants, such person shall be sentenced to a ~~mandatory~~ mini-
32 mum fixed term of imprisonment of five (5) years and fined not less
33 than fifteen thousand dollars (\$15,000).

34 (D) The maximum number of years of imprisonment for trafficking in
35 marijuana shall be fifteen (15) years, and the maximum fine shall
36 be fifty thousand dollars (\$50,000).

37 (E) For the purposes of this section, the weight of the marijuana
38 is its weight when seized or as determined as soon as practicable
39 after seizure, unless the provisions of subsection (e~~d~~) of this
40 section apply.

41 (2) Any person who knowingly manufactures, delivers, or brings into
42 this state, or who is knowingly in actual or constructive possession

1 of, twenty-eight (28) grams or more of cocaine or of any mixture or sub-
2 stance containing a detectable amount of cocaine is guilty of a felony,
3 which felony shall be known as "trafficking in cocaine." If the quantity
4 involved:

5 (A) Is twenty-eight (28) grams or more, but less than two hundred
6 (200) grams, such person shall be sentenced to a ~~mandatory~~ minimum
7 fixed term of imprisonment of three (3) years and fined not less
8 than ten thousand dollars (\$10,000);

9 (B) Is two hundred (200) grams or more, but less than four hundred
10 (400) grams, such person shall be sentenced to a ~~mandatory~~ mini-
11 mum fixed term of imprisonment of five (5) years and fined not less
12 than fifteen thousand dollars (\$15,000);

13 (C) Is four hundred (400) grams or more, such person shall be sen-
14 tenced to a ~~mandatory~~ minimum fixed term of imprisonment of ten
15 (10) years and fined not less than twenty-five thousand dollars
16 (\$25,000).

17 (D) The maximum number of years of imprisonment for trafficking
18 in cocaine shall be life, and the maximum fine shall be one hundred
19 thousand dollars (\$100,000).

20 (3) Any person who knowingly manufactures or attempts to manufacture
21 methamphetamine and/or amphetamine is guilty of a felony, which shall
22 be known as "trafficking in methamphetamine and/or amphetamine by man-
23 ufacturing." Any person convicted of trafficking in methamphetamine
24 and/or amphetamine by attempted manufacturing shall be sentenced to a
25 ~~mandatory~~ minimum fixed term of imprisonment of two (2) years and not
26 to exceed fifteen (15) years of imprisonment and fined not less than
27 ten thousand dollars (\$10,000). Any person convicted of traffick-
28 ing in methamphetamine and/or amphetamine by manufacturing shall be
29 sentenced to a ~~mandatory~~ minimum fixed term of imprisonment of five
30 (5) years and not to exceed life imprisonment and fined not less than
31 twenty-five thousand dollars (\$25,000). The maximum number of years of
32 imprisonment for trafficking in methamphetamine and/or amphetamine by
33 manufacturing shall be life, and the maximum fine shall be one hundred
34 thousand dollars (\$100,000).

35 (4) Any person who knowingly delivers, or brings into this state, or
36 who is knowingly in actual or constructive possession of, twenty-eight
37 (28) grams or more of methamphetamine or amphetamine or of any mixture
38 or substance containing a detectable amount of methamphetamine or am-
39 phetamine is guilty of a felony, which felony shall be known as "traf-
40 ficking in methamphetamine or amphetamine." If the quantity involved:

41 (A) Is twenty-eight (28) grams or more, but less than two hundred
42 (200) grams, such person shall be sentenced to a ~~mandatory~~ minimum
43 fixed term of imprisonment of three (3) years and fined not less
44 than ten thousand dollars (\$10,000);

45 (B) Is two hundred (200) grams or more, but less than four hundred
46 (400) grams, such person shall be sentenced to a ~~mandatory~~ mini-
47 mum fixed term of imprisonment of five (5) years and fined not less
48 than fifteen thousand dollars (\$15,000);

49 (C) Is four hundred (400) grams or more, such person shall be sen-
50 tenced to a ~~mandatory~~ minimum fixed term of imprisonment of ten

1 (10) years and fined not less than twenty-five thousand dollars
2 (\$25,000).

3 (D) The maximum number of years of imprisonment for trafficking in
4 methamphetamine or amphetamine shall be life, and the maximum fine
5 shall be one hundred thousand dollars (\$100,000).

6 (5) Any person who knowingly manufactures, delivers, brings into
7 this state, or who is knowingly in actual or constructive possession
8 of the ~~below~~-specified quantities of any of the following immedi-
9 ate precursors to methamphetamine or amphetamine (namely, ephedrine,
10 methylamine, methyl formamide, phenylacetic acid, phenylacetone, or
11 pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or
12 any compound, mixture or preparation ~~which that~~ contains a detectable
13 quantity of these substances, is guilty of a felony, which shall be
14 known as "trafficking in immediate precursors of methamphetamine or
15 amphetamine." If the quantity:

16 (A) Of ephedrine is five hundred (500) grams or more;

17 (B) Of methylamine is one-half (1/2) pint or more;

18 (C) Of methyl formamide is one-quarter (1/4) pint or more;

19 (D) Of phenylacetic acid is five hundred (500) grams or more;

20 (E) Of phenylacetone is four hundred (400) grams or more;

21 (F) Of pseudoephedrine is five hundred (500) grams or more;

22 such person shall be sentenced to a ~~mandatory~~ minimum fixed term of
23 imprisonment of ten (10) years and fined not less than twenty-five thou-
24 sand dollars (\$25,000). The maximum number of years of imprisonment for
25 trafficking in immediate precursors of methamphetamine or amphetamine
26 in the quantities specified in ~~paragraphs~~ subparagraphs (A) through
27 (F) of this ~~subsection (5) paragraph~~ shall be life, and the maximum fine
28 shall be one hundred thousand dollars (\$100,000). If the quantity of
29 pseudoephedrine is twenty-five (25) grams or more, but less than five
30 hundred (500) grams, such person shall be sentenced to a term of im-
31 prisonment of up to ten (10) years and fined not more than twenty-five
32 thousand dollars (\$25,000).

33 (6) Any person who knowingly manufactures, delivers or brings into this
34 state, or who is knowingly in actual or constructive possession of, two
35 (2) grams or more of heroin or any salt, isomer, or salt of an isomer
36 thereof, or two (2) grams or more of any mixture or substance containing
37 a detectable amount of any such substance is guilty of a felony, which
38 felony shall be known as "trafficking in heroin." If the quantity in-
39 volved:

40 (A) Is two (2) grams or more, but less than seven (7) grams, such
41 person shall be sentenced to a ~~mandatory~~ minimum fixed term of im-
42 prisonment of three (3) years and fined not less than ten thousand
43 dollars (\$10,000);

44 (B) Is seven (7) grams or more, but less than twenty-eight (28)
45 grams, such person shall be sentenced to a ~~mandatory~~ minimum fixed
46 term of imprisonment of ten (10) years and fined not less than fif-
47 teen thousand dollars (\$15,000);

48 (C) Is twenty-eight (28) grams or more, such person shall be sen-
49 tenced to a ~~mandatory~~ minimum fixed term of imprisonment of fif-

1 teen (15) years and fined not less than twenty-five thousand dol-
2 lars (\$25,000).

3 (D) The maximum number of years of imprisonment for trafficking
4 in heroin shall be life, and the maximum fine shall be one hundred
5 thousand dollars (\$100,000).

6 (7) A second conviction for any trafficking offense as defined in this
7 subsubsection ~~(a) of this section~~ shall result in a ~~mandatory~~ minimum fixed
8 term that is twice that otherwise required under this section.

9 ~~(8b) Notwithstanding any other provision of law, with respect to any~~
10 ~~person who is found to have violated the provisions of this section, adjudi-~~
11 ~~cation of guilt or the imposition or execution of sentence shall not be sus-~~
12 ~~pended, deferred, or withheld, nor shall such person be eligible for parole,~~
13 ~~prior to serving a sentence less than the mandatory minimum fixed term of im-~~
14 ~~prisonment prescribed in this section. Further, the court shall not retain~~
15 ~~jurisdiction may be imposed only if the court finds that:~~

16 (1) The imposition of the minimum sentence would result in manifest in-
17 justice; and

18 (2) The minimum sentence is not necessary for the protection of the pub-
19 lic.

20 ~~(8c) Any person who agrees, conspires, combines or confederates with~~
21 ~~another person or solicits another person to commit any act prohibited in~~
22 ~~subsubsection (a) of this section is guilty of a felony and is punishable as if~~
23 ~~he had actually committed such prohibited act.~~

24 ~~(ed) For the purposes of subsections (a) and (8c) of this section, the~~
25 ~~weight of the controlled substance as represented by the person selling or~~
26 ~~delivering it is determinative if the weight as represented is greater than~~
27 ~~the actual weight of the controlled substance.~~