

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 469

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE, TO REVISE PENALTIES FOR TRAFFICKING IN HEROIN, TO PROVIDE PENALTIES FOR TRAFFICKING IN FENTANYL, AND TO MAKE TECHNICAL CORRECTIONS.

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

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

37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as authorized in this chapter, and notwithstanding the provisions of section 37-2732, Idaho Code:

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

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

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

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

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

(E) For the purposes of this section, the weight of the marijuana is its weight when seized or as determined as soon as practicable after seizure, unless the provisions of subsection (c) of this section apply.

(2) Any person who knowingly manufactures, delivers, or brings into 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  
24 thousand dollars (\$25,000). The maximum number of years of impris-  
25 onment for trafficking in immediate precursors of methamphetamine or  
26 amphetamine in the quantities specified in 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 five (25) grams or more of heroin or any salt, isomer, or salt of an iso-  
36 mer thereof, or ~~two five (25)~~ grams or more of any mixture or substance  
37 containing a detectable amount of any such substance is guilty of a  
38 felony, which felony shall be known as "trafficking in heroin." If the  
39 quantity involved:

40 (A) Is ~~two five (25)~~ grams or more, but less than ~~seven ten (710)~~  
41 grams, such person shall be sentenced to a mandatory minimum fixed  
42 term of imprisonment of three (3) years and fined not less than ten  
43 thousand dollars (\$10,000);

44 (B) Is ~~seven ten (710)~~ grams or more, but less than twenty-eight  
45 (28) grams, such person shall be sentenced to a mandatory minimum  
46 fixed term of imprisonment of ~~ten five (105)~~ years and fined not  
47 less than fifteen thousand dollars (\$15,000);

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

1 ~~fifteen~~ ten (150) years and fined not less than twenty-five thou-  
 2 sand dollars (\$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) Any person who knowingly manufactures, delivers, or brings into  
 7 this state, or who is knowingly in actual or constructive possession  
 8 of, five (5) grams or more of alfentanil, as described in section  
 9 37-2707(7)(c)(1), Idaho Code; carfentanil, as described in section  
 10 37-2707(7)(c)(6), Idaho Code; fentanyl, as described in section  
 11 37-2707(7)(c)(9), Idaho Code; sufentanil, as described in section  
 12 37-2707(7)(c)(27), Idaho Code; fentanyl-related substances, as de-  
 13 scribed in section 37-2705(b)(32), Idaho Code; or any mixture or sub-  
 14 stance containing a detectable amount of any such substance is guilty of  
 15 a felony, which felony shall be known as "trafficking in fentanyl." If  
 16 the quantity involved:

17 (A) Is five (5) grams or more, but less than ten (10) grams, such  
 18 person shall be sentenced to a mandatory minimum fixed term of  
 19 imprisonment of three (3) years and fined ten thousand dollars  
 20 (\$10,000);

21 (B) Is ten (10) grams or more, but less than twenty-eight (28)  
 22 grams, such person shall be sentenced to a mandatory minimum fixed  
 23 term of imprisonment of five (5) years and fined fifteen thousand  
 24 dollars (\$15,000);

25 (C) Is twenty-eight (28) grams or more, such person shall be sen-  
 26 tenced to a mandatory minimum fixed term of imprisonment of ten  
 27 (10) years and fined twenty-five thousand dollars (\$25,000).

28 (8) A second conviction for any trafficking offense as defined in this  
 29 subsection (a) of this section shall result in a mandatory minimum fixed  
 30 term that is twice that otherwise required under this section.

31 (~~8~~9) Notwithstanding any other provision of law, with respect to any  
 32 person who is found to have violated the provisions of this section, ad-  
 33 judication of guilt or the imposition or execution of sentence shall not  
 34 be suspended, deferred, or withheld, nor shall such person be eligible  
 35 for parole prior to serving the mandatory minimum fixed term of impris-  
 36 onment prescribed in this section. Further, the court shall not retain  
 37 jurisdiction.

38 (b) Any person who agrees, conspires, combines or confederates with an-  
 39 other person or solicits another person to commit any act prohibited in sub-  
 40 section (a) of this section is guilty of a felony and is punishable as if he  
 41 had actually committed such prohibited act.

42 (c) For the purposes of subsections (a) and (b) of this section, the  
 43 weight of the controlled substance as represented by the person selling or  
 44 delivering it is determinative if the weight as represented is greater than  
 45 the actual weight of the controlled substance.