

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

607E0174

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1092 - 02/12/2001

Introduced by: Representatives Brown (Jarvis), Abdallah, Broderick, Duniphan, Garnos,
and Konold and Senators Albers, Brosz, and Moore

1 FOR AN ACT ENTITLED, An Act to include in certain drug offenses the altered state of a
2 controlled drug or substance or marijuana once absorbed into the body.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-42-1 be amended to read as follows:

5 22-42-1. Terms used in this chapter, ~~unless the context plainly requires otherwise,~~ mean:

6 (1) "Controlled drug or substance," a drug or substance, or an immediate precursor of a
7 drug or substance, listed in Schedules I through IV. The term includes an altered state
8 of a drug or substance listed in Schedules I through IV absorbed into the human body;

9 (2) "Counterfeit substance," a controlled drug or substance which, or the container of
10 labeling of which, without authorization, bears the trade-mark, trade name, or other
11 identifying mark, imprint, number, or device, or any likeness thereof, of a
12 manufacturer, distributor, or dispenser other than the person or persons who
13 manufactured, distributed, or dispensed such substance and which thereby falsely
14 purports or is represented to be the product of, or to have been distributed by, such

- 1 other manufacturer, distributor, or dispenser;
- 2 (3) "Deliver" or "delivery," the actual or constructive transfer of a controlled drug,
3 substance, or marijuana whether or not there exists an agency relationship;
- 4 (4) "Dispense," to deliver a controlled drug or substance to the ultimate user or human
5 research subject by or pursuant to the lawful order of a practitioner, including the
6 prescribing, administering, packaging, labeling, or compounding necessary to prepare
7 the substance for such delivery, and a "dispenser" is one who dispenses;
- 8 (5) "Distribute," to deliver a controlled drug, substance, or marijuana. "Distribution"
9 means the delivery of a controlled drug, substance, or marijuana;
- 10 (6) "Manufacture," the production, preparation, propagation, compounding, or
11 processing of a controlled drug or substance, either directly or indirectly by extraction
12 from substances of natural origin, or independently by means of chemical synthesis or
13 by a combination of extraction and chemical synthesis. A "manufacturer" includes any
14 person who packages, repackages, or labels any container of any controlled drug or
15 substance, except practitioners who dispense or compound prescription orders for
16 delivery to the ultimate user;
- 17 (7) "Marijuana," all parts of any plant of the genus *cannabis*, whether growing or not, in
18 its natural and unaltered state, except for drying or curing and crushing or crumbling.
19 The term includes an altered state of marijuana absorbed into the human body. The
20 term does not include fiber produced from the mature stalks of such plant, or oil or
21 cake made from the seeds of such plant;
- 22 (8) "Practitioner," a doctor of medicine, osteopathy, podiatry, dentistry, optometry, or
23 veterinary medicine licensed to practice his profession, or pharmacists licensed to
24 practice their profession; physician's assistants certified to practice their profession;

1 government employees acting within the scope of their employment; and persons
2 permitted by certificates issued by the Department of Health to distribute, dispense,
3 conduct research with respect to, or administer a substance controlled by chapter
4 34-20B;

5 (9) "Precursor" or "immediate precursor," a substance which the Department of Health
6 has found to be and by rule designates as being a principal compound commonly used
7 or produced primarily for use, and which is an immediate chemical intermediary used
8 or likely to be used, in the manufacture of a controlled drug or substance, the control
9 of which is necessary to prevent, curtail, or limit such manufacture;

10 (10) "Schedule I," "Schedule II," "Schedule III," and "Schedule IV," those schedules of
11 drugs, substances, and immediate precursors listed in chapter 34-20B;

12 (11) "Ultimate user," a person who lawfully possesses a controlled drug or substance for
13 ~~his~~ that person's own use or for the use of a member of ~~his~~ that person's household or
14 for administration to an animal owned by ~~him~~ that person or by a member of ~~his~~ that
15 person's household.