

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 239
100TH GENERAL ASSEMBLY

0687H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 579.015, 579.065, and 579.068, RSMo, and to enact in lieu thereof three new sections relating to controlled substance offenses, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 579.015, 579.065, and 579.068, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 579.015, 579.065, and 579.068, to read
3 as follows:

579.015. 1. A person commits the offense of possession of a controlled substance if he
2 or she knowingly possesses a controlled substance, except as authorized by this chapter or
3 chapter 195.

4 2. The offense of possession of any controlled substance except thirty-five grams or less
5 of marijuana or any synthetic cannabinoid, **or except as provided in subsection 3 of this**
6 **section**, is a class D felony.

7 **3. The offense of possession of flunitrazepam or gamma-hydroxybutyric acid is a**
8 **class E felony.**

9 ~~[3-]~~ 4. The offense of possession of more than ten grams but thirty-five grams or less of
10 marijuana or any synthetic cannabinoid is a class A misdemeanor.

11 ~~[4-]~~ 5. The offense of possession of not more than ten grams of marijuana or any
12 synthetic cannabinoid is a class D misdemeanor. If the defendant has previously been found
13 guilty of any offense of the laws related to controlled substances of this state, or of the United
14 States, or any state, territory, or district, the offense is a class A misdemeanor. Prior findings of
15 guilt shall be pleaded and proven in the same manner as required by section 558.021.

16 ~~[5-]~~ 6. In any complaint, information, or indictment, and in any action or proceeding
17 brought for the enforcement of any provision of this chapter or chapter 195, it shall not be

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 necessary to include any exception, excuse, proviso, or exemption contained in this chapter or
19 chapter 195, and the burden of proof of any such exception, excuse, proviso or exemption shall
20 be upon the defendant.

579.065. 1. A person commits the offense of trafficking drugs in the first degree if,
2 except as authorized by this chapter or chapter 195, such person knowingly distributes, delivers,
3 manufactures, produces or attempts to distribute, deliver, manufacture or produce:

4 (1) More than thirty grams but less than ninety grams of a mixture or substance
5 containing a detectable amount of heroin;

6 (2) More than one hundred fifty grams but less than four hundred fifty grams of a
7 mixture or substance containing a detectable amount of coca leaves, except coca leaves and
8 extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts
9 have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers;
10 ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture,
11 or preparation which contains any quantity of any of the foregoing substances;

12 (3) More than eight grams but less than twenty-four grams of a mixture or substance
13 described in subdivision (2) of this subsection which contains cocaine base;

14 (4) More than five hundred milligrams but less than one gram of a mixture or substance
15 containing a detectable amount of lysergic acid diethylamide (LSD);

16 (5) More than thirty grams but less than ninety grams of a mixture or substance
17 containing a detectable amount of phencyclidine (PCP);

18 (6) More than four grams but less than twelve grams of phencyclidine;

19 (7) More than thirty kilograms but less than one hundred kilograms of a mixture or
20 substance containing marijuana;

21 (8) More than thirty grams but less than ninety grams of any material, compound,
22 mixture, or preparation containing any quantity of the following substances having a stimulant
23 effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its
24 optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers;
25 phenmetrazine and its salts; or methylphenidate; [✗]

26 (9) More than thirty grams but less than ninety grams of any material, compound,
27 mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine;

28 **(10) One gram or more of flunitrazepam for the first offense;**

29 **(11) Any amount of gamma-hydroxybutyric acid for the first offense; or**

30 **(12) More than ten milligrams but less than twenty milligrams of fentanyl, or any**
31 **derivative thereof, or any compound, mixture, or substance containing a detectable amount**
32 **of fentanyl, carfentanyl, or their optical isomers or analogues.**

33 2. The offense of trafficking drugs in the first degree is a class B felony.

34 3. The offense of trafficking drugs in the first degree is a class A felony if the quantity
35 involved is:

36 (1) Ninety grams or more of a mixture or substance containing a detectable amount of
37 heroin; or

38 (2) Four hundred fifty grams or more of a mixture or substance containing a detectable
39 amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
40 ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their
41 optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers,
42 and salts of isomers; or any compound, mixture, or preparation which contains any quantity of
43 any of the foregoing substances; or

44 (3) Twenty-four grams or more of a mixture or substance described in subdivision (2)
45 of this subsection which contains cocaine base; or

46 (4) One gram or more of a mixture or substance containing a detectable amount of
47 lysergic acid diethylamide (LSD); or

48 (5) Ninety grams or more of a mixture or substance containing a detectable amount of
49 phencyclidine (PCP); or

50 (6) Twelve grams or more of phencyclidine; or

51 (7) One hundred kilograms or more of a mixture or substance containing marijuana; or

52 (8) Ninety grams or more of any material, compound, mixture, or preparation containing
53 any quantity of the following substances having a stimulant effect on the central nervous system:
54 amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its
55 salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or
56 methylphenidate; or

57 (9) More than thirty grams of any material, compound, mixture, or preparation
58 containing any quantity of the following substances having a stimulant effect on the central
59 nervous system: amphetamine, its salts, optical isomers, and salts of its optical isomers;
60 methamphetamine, its salts, optical isomers, and salts of its optical isomers; phenmetrazine and
61 its salts; or methylphenidate, and the location of the offense was within two thousand feet of real
62 property comprising a public or private elementary, vocational, or secondary school, college,
63 community college, university, or any school bus, in or on the real property comprising public
64 housing or any other governmental assisted housing, or within a motor vehicle, or in any
65 structure or building which contains rooms furnished for the accommodation or lodging of
66 guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping
67 accommodations are sought for pay or compensation to transient guests or permanent guests; or

68 (10) Ninety grams or more of any material, compound, mixture or preparation which
69 contains any quantity of 3,4-methylenedioxymethamphetamine; or

70 (11) More than thirty grams of any material, compound, mixture, or preparation which
71 contains any quantity of 3,4-methylenedioxymethamphetamine and the location of the offense
72 was within two thousand feet of real property comprising a public or private elementary,
73 vocational, or secondary school, college, community college, university, or any school bus, in
74 or on the real property comprising public housing or any other governmental assisted housing,
75 within a motor vehicle, or in any structure or building which contains rooms furnished for the
76 accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the
77 public as a place where sleeping accommodations are sought for pay or compensation to transient
78 guests or permanent guests;

79 (12) **One gram or more of flunitrazepam for a second or subsequent offense;**

80 (13) **Any amount of gamma-hydroxybutyric acid for a second or subsequent**
81 **offense; or**

82 (14) **Twenty milligrams or more of fentanyl, or any derivative thereof, or any**
83 **compound, mixture, or substance containing a detectable amount of fentanyl, carfentanyl,**
84 **or their optical isomers or analogues.**

579.068. 1. A person commits the offense of trafficking drugs in the second degree if,
2 except as authorized by this chapter or chapter 195, such person knowingly possesses or has
3 under his or her control, purchases or attempts to purchase, or brings into this state:

4 (1) More than thirty grams but less than ninety grams of a mixture or substance
5 containing a detectable amount of heroin;

6 (2) More than one hundred fifty grams but less than four hundred fifty grams of a
7 mixture or substance containing a detectable amount of coca leaves, except coca leaves and
8 extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts
9 have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers;
10 ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture,
11 or preparation which contains any quantity of any of the foregoing substances;

12 (3) More than eight grams but less than twenty-four grams of a mixture or substance
13 described in subdivision (2) of this subsection which contains cocaine base;

14 (4) More than five hundred milligrams but less than one gram of a mixture or substance
15 containing a detectable amount of lysergic acid diethylamide (LSD);

16 (5) More than thirty grams but less than ninety grams of a mixture or substance
17 containing a detectable amount of phencyclidine (PCP);

18 (6) More than four grams but less than twelve grams of phencyclidine;

19 (7) More than thirty kilograms but less than one hundred kilograms of a mixture or
20 substance containing marijuana;

21 (8) More than thirty grams but less than ninety grams of any material, compound,
22 mixture, or preparation containing any quantity of the following substances having a stimulant
23 effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its
24 optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers;
25 phenmetrazine and its salts; or methylphenidate; ~~or~~

26 (9) More than thirty grams but less than ninety grams of any material, compound,
27 mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine;
28 **or**

29 **(10) More than ten milligrams but less than twenty milligrams of fentanyl, or any**
30 **derivative thereof, or any compound, mixture, or substance containing a detectable amount**
31 **of fentanyl, carfentanyl, or their optical isomers or analogues.**

32 2. The offense of trafficking drugs in the second degree is a class C felony.

33 3. The offense of trafficking drugs in the second degree is a class B felony if the quantity
34 involved is:

35 (1) Ninety grams or more of a mixture or substance containing a detectable amount of
36 heroin; or

37 (2) Four hundred fifty grams or more of a mixture or substance containing a detectable
38 amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
39 ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their
40 optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers,
41 and salts of isomers; or any compound, mixture, or preparation which contains any quantity of
42 any of the foregoing substances; or

43 (3) Twenty-four grams or more of a mixture or substance described in subdivision (2)
44 of this subsection which contains cocaine base; or

45 (4) One gram or more of a mixture or substance containing a detectable amount of
46 lysergic acid diethylamide (LSD); or

47 (5) Ninety grams or more of a mixture or substance containing a detectable amount of
48 phencyclidine (PCP); or

49 (6) Twelve grams or more of phencyclidine; or

50 (7) One hundred kilograms or more of a mixture or substance containing marijuana; or

51 (8) More than five hundred marijuana plants; or

52 (9) Ninety grams or more but less than four hundred fifty grams of any material,
53 compound, mixture, or preparation containing any quantity of the following substances having
54 a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts
55 of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers;
56 phenmetrazine and its salts; or methylphenidate; or

57 (10) Ninety grams or more but less than four hundred fifty grams of any material,
58 compound, mixture, or preparation which contains any quantity of
59 3,4-methylenedioxymethamphetamine; or

60 **(11) Twenty milligrams or more of fentanyl, or any derivative thereof, or any**
61 **compound, mixture, or substance containing a detectable amount of fentanyl, carfentanyl,**
62 **or their optical isomers or analogues.**

63 4. The offense of trafficking drugs in the second degree is a class A felony if the quantity
64 involved is four hundred fifty grams or more of any material, compound, mixture or preparation
65 which contains:

66 (1) Any quantity of the following substances having a stimulant effect on the central
67 nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers;
68 methamphetamine, its salts, isomers and salts of its isomers; phenmetrazine and its salts; or
69 methylphenidate; or

70 (2) Any quantity of 3,4-methylenedioxymethamphetamine.

71 **5. The offense of drug trafficking in the second degree is a class E felony for the**
72 **first offense and a class C felony for any second or subsequent offense for the trafficking**
73 **of less than one gram of flunitrazepam.**

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