

1.1 A bill for an act

1.2 relating to crime; establishing a marijuana plant possession crime; modifying  
1.3 marijuana sale and possession amounts; amending Minnesota Statutes 2008,  
1.4 sections 152.01, subdivision 16, by adding a subdivision; 152.021, subdivisions  
1.5 1, 2; 152.022, subdivisions 1, 2; 152.023, subdivisions 1, 2; 152.025, subdivision  
1.6 2; 244.055, subdivisions 2, 3, 5, by adding a subdivision; proposing coding for  
1.7 new law in Minnesota Statutes, chapter 152; repealing Minnesota Statutes 2008,  
1.8 section 244.055, subdivisions 6, 11.

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

1.10 Section 1. Minnesota Statutes 2008, section 152.01, subdivision 16, is amended to read:

1.11 Subd. 16. **Small amount.** "Small amount" as applied to marijuana means ~~42.5~~ 14  
1.12 grams or less. This provision shall not apply to the resinous form of marijuana.

1.13 Sec. 2. Minnesota Statutes 2008, section 152.01, is amended by adding a subdivision  
1.14 to read:

1.15 Subd. 23. **Marijuana plant.** "Marijuana plant" means a plant having leaves and  
1.16 a readily observable root formation of any species of the genus Cannabis, including all  
1.17 agronomical varieties.

1.18 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
1.19 committed on or after that date.

1.20 Sec. 3. Minnesota Statutes 2008, section 152.021, subdivision 1, is amended to read:

1.21 Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in  
1.22 the first degree if:

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2.1 (1) on one or more occasions within a 90-day period the person unlawfully sells one  
2.2 or more mixtures of a total weight of ten grams or more containing cocaine, heroin, or  
2.3 methamphetamine;

2.4 (2) on one or more occasions within a 90-day period the person unlawfully sells one  
2.5 or more mixtures of a total weight of 50 grams or more containing a narcotic drug other  
2.6 than cocaine, heroin, or methamphetamine;

2.7 (3) on one or more occasions within a 90-day period the person unlawfully sells  
2.8 one or more mixtures of a total weight of 50 grams or more containing amphetamine,  
2.9 phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units,  
2.10 equaling 200 or more dosage units; or

2.11 (4) on one or more occasions within a 90-day period the person unlawfully sells one  
2.12 or more mixtures of a total weight of ~~50~~ 12.5 kilograms or more containing marijuana or  
2.13 Tetrahydrocannabinols, ~~or one or more mixtures of a total weight of 25 kilograms or more~~  
2.14 ~~containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, a public~~  
2.15 ~~housing zone, or a drug treatment facility.~~

2.16 Sec. 4. Minnesota Statutes 2008, section 152.021, subdivision 2, is amended to read:

2.17 Subd. 2. **Possession crimes.** A person is guilty of a controlled substance crime in  
2.18 the first degree if:

2.19 (1) the person unlawfully possesses one or more mixtures of a total weight of ~~25~~ 35  
2.20 grams or more containing cocaine, heroin, or methamphetamine;

2.21 (2) the person unlawfully possesses one or more mixtures of a total weight of 500  
2.22 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

2.23 (3) the person unlawfully possesses one or more mixtures of a total weight of  
2.24 500 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the  
2.25 controlled substance is packaged in dosage units, equaling 500 or more dosage units; ~~or~~

2.26 (4) the person unlawfully possesses one or more mixtures of a total weight of ~~100~~ 25  
2.27 kilograms or more containing marijuana or Tetrahydrocannabinols; or

2.28 (5) the person unlawfully possesses 100 or more marijuana plants. This clause  
2.29 does not limit the power of the state to punish a person for conduct that constitutes a  
2.30 crime under other laws of this state.

2.31 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
2.32 committed on or after that date.

2.33 Sec. 5. Minnesota Statutes 2008, section 152.022, subdivision 1, is amended to read:

3.1 Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime  
3.2 in the second degree if:

3.3 (1) on one or more occasions within a 90-day period the person unlawfully sells  
3.4 one or more mixtures of a total weight of ~~three~~ five grams or more containing cocaine,  
3.5 heroin, or methamphetamine;

3.6 (2) on one or more occasions within a 90-day period the person unlawfully sells one  
3.7 or more mixtures of a total weight of ten grams or more containing a narcotic drug other  
3.8 than cocaine, heroin, or methamphetamine;

3.9 (3) on one or more occasions within a 90-day period the person unlawfully sells  
3.10 one or more mixtures of a total weight of ten grams or more containing amphetamine,  
3.11 phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units,  
3.12 equaling 50 or more dosage units;

3.13 (4) on one or more occasions within a 90-day period the person unlawfully sells one  
3.14 or more mixtures of a total weight of ~~25~~ six kilograms or more containing marijuana or  
3.15 Tetrahydrocannabinols;

3.16 (5) the person unlawfully sells any amount of a schedule I or II narcotic drug to a  
3.17 person under the age of 18, or conspires with or employs a person under the age of 18 to  
3.18 unlawfully sell the substance; or

3.19 (6) the person unlawfully sells any of the following in a school zone, a park zone, a  
3.20 public housing zone, or a drug treatment facility:

3.21 (i) any amount of a schedule I or II narcotic drug, lysergic acid diethylamide (LSD),  
3.22 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine;

3.23 (ii) one or more mixtures containing methamphetamine or amphetamine; or

3.24 (iii) one or more mixtures of a total weight of five kilograms or more containing  
3.25 marijuana or Tetrahydrocannabinols.

3.26 Sec. 6. Minnesota Statutes 2008, section 152.022, subdivision 2, is amended to read:

3.27 Subd. 2. **Possession crimes.** A person is guilty of controlled substance crime in  
3.28 the second degree if:

3.29 (1) the person unlawfully possesses one or more mixtures of a total weight of ~~six~~ ten  
3.30 grams or more containing cocaine, heroin, or methamphetamine;

3.31 (2) the person unlawfully possesses one or more mixtures of a total weight of 50  
3.32 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

3.33 (3) the person unlawfully possesses one or more mixtures of a total weight of  
3.34 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the  
3.35 controlled substance is packaged in dosage units, equaling 100 or more dosage units; ~~or~~

4.1 (4) the person unlawfully possesses one or more mixtures of a total weight of ~~50~~  
4.2 12.5 kilograms or more containing marijuana or Tetrahydrocannabinols; or

4.3 (5) the person unlawfully possesses 50 or more marijuana plants. This clause does  
4.4 not limit the power of the state to punish a person for conduct that constitutes a crime  
4.5 under other laws of this state.

4.6 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
4.7 committed on or after that date.

4.8 Sec. 7. Minnesota Statutes 2008, section 152.023, subdivision 1, is amended to read:

4.9 Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in  
4.10 the third degree if:

4.11 (1) the person unlawfully sells one or more mixtures containing a narcotic drug;

4.12 (2) on one or more occasions within a 90-day period the person unlawfully sells one  
4.13 or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage  
4.14 units, and equals ten or more dosage units;

4.15 (3) the person unlawfully sells one or more mixtures containing a controlled  
4.16 substance classified in schedule I, II, or III, except a schedule I or II narcotic drug, to a  
4.17 person under the age of 18;

4.18 (4) the person conspires with or employs a person under the age of 18 to unlawfully  
4.19 sell one or more mixtures containing a controlled substance listed in schedule I, II, or III,  
4.20 except a schedule I or II narcotic drug; or

4.21 (5) on one or more occasions within a 90-day period the person unlawfully sells  
4.22 one or more mixtures of a total weight of ~~five kilograms~~ 500 grams or more containing  
4.23 marijuana or Tetrahydrocannabinols.

4.24 Sec. 8. Minnesota Statutes 2008, section 152.023, subdivision 2, is amended to read:

4.25 Subd. 2. **Possession crimes.** A person is guilty of controlled substance crime in  
4.26 the third degree if:

4.27 (1) on one or more occasions within a 90-day period the person unlawfully possesses  
4.28 one or more mixtures of a total weight of three grams or more containing cocaine, heroin,  
4.29 or methamphetamine;

4.30 (2) on one or more occasions within a 90-day period the person unlawfully possesses  
4.31 one or more mixtures of a total weight of ten grams or more containing a narcotic drug  
4.32 other than cocaine, heroin, or methamphetamine;

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5.1 (3) on one or more occasions within a 90-day period the person unlawfully possesses  
5.2 one or more mixtures containing a narcotic drug, it is packaged in dosage units, and  
5.3 equals 50 or more dosage units;

5.4 (4) on one or more occasions within a 90-day period the person unlawfully  
5.5 possesses any amount of a schedule I or II narcotic drug or five or more dosage  
5.6 units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or  
5.7 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing  
5.8 zone, or a drug treatment facility;

5.9 (5) on one or more occasions within a 90-day period the person unlawfully possesses  
5.10 one or more mixtures of a total weight of ~~ten kilograms~~ one kilogram or more containing  
5.11 marijuana or Tetrahydrocannabinols; ~~or~~

5.12 (6) on one or more occasions within a 90-day period the person unlawfully possesses  
5.13 25 or more marijuana plants. This clause does not limit the power of the state to punish a  
5.14 person for conduct that constitutes a crime under other laws of this state; or

5.15 ~~(6)~~ (7) the person unlawfully possesses one or more mixtures containing  
5.16 methamphetamine or amphetamine in a school zone, a park zone, a public housing zone,  
5.17 or a drug treatment facility.

5.18 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
5.19 committed on or after that date.

5.20 Sec. 9. Minnesota Statutes 2008, section 152.025, subdivision 2, is amended to read:

5.21 Subd. 2. **Possession and other crimes.** A person is guilty of controlled substance  
5.22 crime in the fifth degree if:

5.23 (1) the person unlawfully possesses one or more mixtures containing a controlled  
5.24 substance classified in schedule I, II, III, or IV, except ~~a small amount of~~ an amount less  
5.25 than 42.5 grams of marijuana; ~~or~~

5.26 (2) the person procures, attempts to procure, possesses, or has control over a  
5.27 controlled substance by any of the following means:

5.28 (i) fraud, deceit, misrepresentation, or subterfuge;

5.29 (ii) using a false name or giving false credit; or

5.30 (iii) falsely assuming the title of, or falsely representing any person to be, a  
5.31 manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice  
5.32 medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of  
5.33 obtaining a controlled substance; ~~or~~

6.1 (3) the person unlawfully possesses ten or more marijuana plants. This clause does  
6.2 not limit the power of the state to punish a person for conduct that constitutes a crime  
6.3 under other laws of this state.

6.4 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
6.5 committed on or after that date.

6.6 Sec. 10. **[152.0251] MISDEMEANOR MARIJUANA POSSESSION.**

6.7 A person who unlawfully possesses more than 14 grams of marijuana is guilty  
6.8 of a misdemeanor.

6.9 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
6.10 committed on or after that date.

6.11 Sec. 11. Minnesota Statutes 2008, section 244.055, subdivision 2, is amended to read:

6.12 Subd. 2. **Conditional release of certain nonviolent controlled substance**  
6.13 **offenders and nonviolent nondrug offenders.** An offender who has been committed to  
6.14 the commissioner's custody may petition the commissioner for conditional release from  
6.15 prison before the offender's scheduled supervised release date or target release date if:

6.16 (1) the offender is serving a sentence for violating section 152.021, subdivision 2  
6.17 or 2a; 152.022, ~~subdivision 2~~; 152.023; 152.024; or 152.025, or serving a sentence for a  
6.18 nonviolent nondrug offense;

6.19 (2) the offender committed the crime as a result of a controlled substance addiction;  
6.20 ~~and not primarily for profit;~~

6.21 (3) the offender has served at least 36 months or one-half of the offender's term of  
6.22 imprisonment, whichever is less;

6.23 (4) the offender successfully completed a chemical dependency treatment program  
6.24 of the type described in this section while in prison;

6.25 (5) the offender has not previously been conditionally released under this section; and

6.26 (6) the offender has not within the past ten years been convicted or adjudicated  
6.27 delinquent for a violent crime as defined in section 609.1095 other than the current  
6.28 conviction for the controlled substance offense or nonviolent nondrug offense.

6.29 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
6.30 committed on or after that date.

6.31 Sec. 12. Minnesota Statutes 2008, section 244.055, subdivision 3, is amended to read:

7.1 Subd. 3. **Offer of chemical dependency treatment.** The commissioner shall offer  
7.2 all offenders meeting the criteria described in subdivision 2, clauses (1), (2), (5), and (6),  
7.3 the opportunity to begin a suitable chemical dependency treatment program of the type  
7.4 described in this section within 160 days after the offender's term of imprisonment begins  
7.5 or as soon after 160 days as possible. In making the determination under subdivision 2,  
7.6 clause (2), that the offender has a controlled substance addiction, the commissioner shall  
7.7 consider the chemical dependency assessment completed at intake, and that the offender is  
7.8 more suitable for early release, the commissioner shall consider validated risk assessment  
7.9 tools such as the Level of Service Inventory-Revised (LSI-R).

7.10 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
7.11 committed on or after that date.

7.12 Sec. 13. Minnesota Statutes 2008, section 244.055, subdivision 5, is amended to read:

7.13 Subd. 5. **Additional requirements.** To be eligible for release under this section,  
7.14 an offender shall sign a written contract with the commissioner agreeing to comply with  
7.15 the requirements of this section and the conditions imposed by the commissioner. ~~In~~  
7.16 ~~addition to other items, the contract must specifically refer to the term of imprisonment~~  
7.17 ~~extension in subdivision 6.~~ In addition, the offender shall agree to submit to random drug  
7.18 and alcohol tests and electronic or home monitoring as determined by the commissioner or  
7.19 the offender's supervising agent. The commissioner may impose additional requirements  
7.20 on the offender that are necessary to carry out the goals of this section.

7.21 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
7.22 committed on or after that date.

7.23 Sec. 14. Minnesota Statutes 2008, section 244.055, is amended by adding a subdivision  
7.24 to read:

7.25 Subd. 10a. **Savings used for drug treatment.** (a) At the end of each fiscal year,  
7.26 the commissioner of corrections shall determine the amount of savings realized from the  
7.27 bed savings for early release of offenders under subdivision 2. The commissioner of  
7.28 corrections shall reallocate or transfer these saved unobligated funds as follows:

7.29 (1) 50 percent of the funds shall be allocated for additional drug treatment programs  
7.30 in state correctional facilities; and

7.31 (2) 50 percent of the funds shall be allocated to local corrections agencies for drug  
7.32 treatment programs, workhouse resources, and supervision and management of offenders.

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8.1            (b) Any unobligated funds from each fiscal year realized under paragraph (a) shall  
8.2            not cancel but are reappropriated for the purposes of paragraph (a), clauses (1) and (2).

8.3            **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes  
8.4            committed on or after that date.

8.5            Sec. 15. **REPEALER.**

8.6            Minnesota Statutes 2008, section 244.055, subdivisions 6 and 11, are repealed.



**244.055 CONDITIONAL RELEASE OF NONVIOLENT CONTROLLED  
SUBSTANCE OFFENDERS; TREATMENT.**

Subd. 6. **Extension of term of imprisonment for offenders who fail in treatment.**  
When an offender fails to successfully complete the chemical dependency treatment program under this section, the commissioner shall add the time that the offender was participating in the program to the offender's term of imprisonment. However, the offender's term of imprisonment may not be extended beyond the offender's executed sentence.

Subd. 11. **Sunset.** This section expires July 1, 2009.