

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 179

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE,  
TO REMOVE MANDATORY MINIMUM SENTENCING PROVISIONS FOR TRAFFICKING IN  
CONTROLLED SUBSTANCES.

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 au-  
thorized 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 con-~~  
~~sists 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 mini-~~  
~~imum 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 practica-~~  
~~ble 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 ~~imum 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  
25 a mandatory minimum fixed term of imprisonment of two (2) years and  
26 not to exceed fifteen (15) years 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 ~~imum 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~~

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

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

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

~~(A) Of ephedrine is fFive hundred (500) grams or more of ephedrine;~~

~~(B) Of methylamine is oOne-half (1/2) pint or more of methylamine;~~

~~(C) Of methyl formamide is oOne-quarter (1/4) pint or more of methyl formamide;~~

~~(D) Of phenylacetic acid is fFive hundred (500) grams or more of phenylacetic acid;~~

~~(E) Of phenylacetone is fFour hundred (400) grams or more of phenylacetone;~~

~~(F) Of pseudoephedrine is fFive hundred (500) grams or more of pseudoephedrine.~~

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

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

~~(A) Is two (2) grams or more, but less than seven (7) grams, 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);~~

~~(B) Is seven (7) grams or more, but less than twenty-eight (28) grams, such person shall be sentenced to a mandatory minimum fixed~~

1 ~~term of imprisonment of ten (10) years and fined not less than fif-~~  
2 ~~teen thousand dollars (\$15,000);~~

3 ~~(C) Is twenty-eight (28) grams or more, such person shall be sen-~~  
4 ~~tenced to a mandatory minimum fixed term of imprisonment of fif-~~  
5 ~~teen (15) years and fined not less than twenty-five thousand dol-~~  
6 ~~lars (\$25,000).~~

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

10 ~~(7) A second conviction for any trafficking offense as defined in sub-~~  
11 ~~section (a) of this section shall result in a mandatory minimum fixed~~  
12 ~~term that is twice that otherwise required under this section.~~

13 ~~(8) Notwithstanding any other provision of law, with respect to any~~  
14 ~~person who is found to have violated the provisions of this section, ad-~~  
15 ~~judication of guilt or the imposition or execution of sentence shall not~~  
16 ~~be suspended, deferred, or withheld, nor shall such person be eligible~~  
17 ~~for parole prior to serving the mandatory minimum fixed term of impris-~~  
18 ~~onment prescribed in this section. Further, the court shall not retain~~  
19 ~~jurisdiction.~~

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

24 (c) For the purposes of subsections (a) and (b) 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.