

SECOND REGULAR SESSION

SENATE BILL NO. 806

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAXWELL.

Read 1st time January 21, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3319.02I

AN ACT

To repeal sections 195.233, 195.420, 195.503, 195.505, 195.509 and 568.045, RSMo 1994, and section 570.030, RSMo Supp. 1997, relating to crimes and punishment, and to enact in lieu thereof nine new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 195.233, 195.420, 195.503, 195.505, 195.509 and 568.045, RSMo 1994, and section 570.030, RSMo Supp. 1997, are repealed and nine new sections enacted in lieu thereof, to be known as sections 195.233, 195.420, 195.503, 195.505, 195.509, 490.730, 568.045, 570.030 and 1, to read as follows:

195.233. 1. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425.

2. A person who violates this section is guilty of a class A misdemeanor, **unless the person uses, or possesses with intent to use, the paraphernalia in combination with each other, to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, in which case the violation of this section is a class D felony.**

195.420. 1. It is unlawful for any person to possess chemicals listed in subsection 2 of section 195.400, **or any other chemicals proven to be precursor ingredients of methamphetamine as established by expert testimony pursuant to subsection 3 of this**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

section, with the intent to manufacture, compound, convert, produce, process, prepare, test, or otherwise alter that chemical to create a controlled substance or a controlled substance analogue in violation of sections 195.005 to 195.425.

2. A person who violates this section is guilty of a class [D] C felony.

3. The state may present expert testimony to provide a prima facie case that a chemical not listed in subsection 2 of section 195.400 is an immediate precursor ingredient for producing methamphetamine.

195.503. As used in sections 195.501 to 195.511, the following terms mean:

(1) "Department", the department of public safety;

(2) "Director", the director of the department of public safety;

(3) "Drug laws", all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, distributing, or use of [controlled substances, as defined in section 195.010] **methamphetamine**;

(4) "Multijurisdictional enforcement group", or "MEG", a combination of [political subdivisions established under sections 173.500 and 173.503, RSMo, section 178.653, RSMo, and section 311.329, RSMo, to enforce the drug laws of this state] **counties of the second, third or fourth classification**.

195.505. 1. Any two or more [political subdivisions or the state highway patrol and any one or more political subdivisions] **counties of the second, third or fourth classification** may by order or ordinance agree to cooperate with one another in the formation of a multijurisdictional enforcement group for the purpose of intensive professional investigation of narcotics and drug law violations.

2. The power of arrest of any peace officer who is duly authorized as a member of a MEG unit shall only be exercised during the time such peace officer is an active member of a MEG unit and only within the scope of the investigation on which the MEG unit is working. Notwithstanding other provisions of law to the contrary, such MEG officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of the municipality in which the arrest is to take place or the sheriff of the county if the arrest is to be made in his venue. If exigent circumstances exist, such arrest may be made; however, notification shall be made to the chief of police or sheriff, as appropriate, as soon as practical. The chief of police or sheriff may elect to work with the MEG unit at his option when such MEG is operating within the jurisdiction of such chief of police or sheriff.

195.509. 1. A multijurisdictional enforcement group which meets the minimum criteria established in this section is eligible to receive state grants to help defray the costs of operation.

2. To be eligible for state grants, a MEG shall:

(1) Be established and operating pursuant to intergovernmental contracts written and

executed in conformity by law, and involve two or more [units of local government] **counties of the second, third or fourth classification;**

(2) Establish a MEG policy board composed of an elected official, or his designee, and the chief law enforcement officer from each participating [unit of local government] **county** to oversee the operations of the MEG and make such reports to the department of public safety as the department may require;

(3) Designate a single appropriate official of a participating [unit of local government] **county** to act as the financial officer of the MEG for all participating [units of the local government] **counties** and to receive funds for the operation of the MEG;

(4) Limit its target operation to enforcement of drug laws **concerning methamphetamine;**

(5) Cooperate with the department of public safety in order to assure compliance with sections 195.501 to 195.511 and to enable the department to fulfill its duties under sections 195.501 to 195.511 and supply the department with all information the department deems necessary therefor.

3. The department of public safety shall monitor the operations of all MEG units which receive state grants. From the moneys appropriated annually, if funds are made available by the general assembly for this purpose, the director shall determine and certify to the auditor the amount of the grant to be made to each designated MEG financial officer. No provision of this section shall prohibit funding of multijurisdictional enforcement groups by sources other than those provided by the general assembly, if such funding is in accordance with and in such a manner as provided by law.

490.730. 1. As used in this section, the term "hazardous materials" means any substance which is capable of posing an unreasonable risk to health, safety and property. It shall include any controlled substance or controlled substance analogue as defined in section 195.010, RSMo, or any substance which by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material which may cause spontaneous combustion. It shall include, but not be limited to, substances listed in the Table of Hazardous Materials contained in the Code of Federal Regulations, Title 49 and the National Fire Protection Association's Fire Protection Guide on Hazardous Materials.

2. Notwithstanding the provisions of section 575.100, RSMo, and with the approval of the affected court, any law enforcement officer who seizes hazardous materials as evidence related to a criminal investigation may collect representative samples of such hazardous materials, and destroy or dispose of, or direct another person to destroy or dispose of the remaining quantity of such hazardous materials.

3. In any prosecution, representative samples of hazardous materials

accompanied by photographs, video tapes, laboratory analysis reports or other means used to verify and document the identity and quantity of the material shall be deemed competent evidence of such hazardous materials and shall be admissible in any proceeding, hearing or trial as if such materials had been introduced as evidence.

4. In any prosecution for violation of chapter 195, RSMo, in which the weight or quantity of a controlled substance is an element of the offense, the weight or quantity of the controlled substance necessary to prove the element of the offense shall be held as evidence; except that, any amount of controlled substance in excess of that which is necessary to prove the offense may be destroyed at the direction of the seizing law enforcement officer. Photographs, video tapes and laboratory analysis reports shall be admissible in any proceeding, hearing or trial as if such excess amount of controlled substances had been introduced as evidence.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) **[He] Such person** knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; [or]

(2) **[He] Such person** knowingly engages in sexual conduct with a person under the age of seventeen years over whom he **or she** is a parent, guardian, or otherwise charged with the care and custody; **or**

(3) Such person enlists the aid, either through payment or coercion, of a person under the age of seventeen to manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class D felony unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class C felony.

570.030. 1. A person commits the crime of stealing if he **or she** appropriates property or services of another with the purpose to deprive him **or her** thereof, either without his **or her** consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he **or she** failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he **or she** gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he **or she** left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he **or she** surreptitiously removed or attempted to remove his **or her** baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is one hundred fifty dollars or more;

or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo[]; otherwise, stealing is a class A misdemeanor].

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony.

[4.] **5.** The theft of any item of property or services under subsection 3 of this section which exceeds one hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

[5.] **6.** Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

Section 1. 1. No person shall provide any precursor materials used in methamphetamine production to any other person knowing that the person to whom

such materials are provided intends to use such materials for the production of methamphetamine.

2. Any person who violates the provisions of subsection 1 of this section is guilty of a class D felony.

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