

CHAPTER NO. 587.

HOUSE BILL NO. 608

INTRODUCED BY GOULD, RAMIREZ, SCULLY, ELLIS, LORY, CONROY,  
SALES, MARKS, MOORE, HAND, O'CONNELL, LIEN, KEEDY,  
GILLIGAN, TEAGUE, KVAALEN, UNDERDAL, HEMSTAD, MEYER,  
C. SMITH, SPILKER, DONALDSON, NATHE, ANDERSON, ELLISON,  
SEIFERT, NORDTVEDT, IVERSON, ROTH, CURTISS, STOBIE,  
WYRICK, JOHNSTON, HAYNE, QUILICI, FAGG, SCHULTZ,  
PISTORIA, STAIGMILLER, MANUEL, FEDA, ERNST, MENAHAN,  
ELLERD, KROPP, VINGER, HARRINGTON, LUND, PAVLOVICH,  
PORTER, FABREGA, DAILY, SIVERTSEN, HURWITZ, TROPILA,  
ROSENTHAL, DAY, WOOD, BENNETT, JENSEN

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Judiciary.
February 12, 1979	Committee recommend bill do pass. Report adopted.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, do pass.
February 16, 1979	Considered correctly engrossed.
February 17, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 19, 1979	Introduced and referred to Committee on Judiciary.
March 8, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 10, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 14, 1979	Returned from second house. Concurred in as amended.
March 16, 1979	Second reading, amendments rejected.  On motion, Joint Conference Committee requested.
March 17, 1979	Joint Conference Committee appointed.
April 2, 1979	Joint Conference Committee reported.
April 3, 1979	Second reading, adopted.
April 4, 1979	Third reading, adopted.
April 5, 1979	Adopted by Senate.  Sent to enrolling.  Reported correctly enrolled.

*Seifert*  
*Wright*  
*Ellis*  
*Wage*  
*Bennett*  
*Jensen*

*House* BILL NO. 608 *Mark Mann*  
 INTRODUCED BY *Bob Lammie, Sull, Elmer Jay Conway*  
*Hand O'Connell, Jan Kelly, Della League Kvaal, an*  
*judicial, Hamstad, Meyer*  
*C. Smith, Spitzer, Smalson, NATH, Harris, Etherton*  
*Jensen, Roth*  
*Wright, Stewart, Jayne, Linder, Fagg, Smith, Astoria*  
*Stymilli, Manuel, Fred, Ernst, Member*  
*Kropp, Amy, Haney, Gund, Carlson, Day*  
*Daily, Switzer, Hummel, Unruh, Rosenthal*  
*Word*

1 *Sales*  
 2 INTRODUCED BY  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE INCREASED  
 5 PENALTIES FOR CRIMINAL SALE OF DANGEROUS DRUGS IN CERTAIN  
 6 CIRCUMSTANCES; AMENDING SECTIONS 45-9-101 AND 46-18-201,  
 7 MCA." *Wright, Stewart, Jayne, Linder, Fagg, Smith, Astoria*  
 8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10 Section 1. Section 45-9-101, MCA, is amended to read:  
 11 "45-9-101. Criminal sale of dangerous drugs. (1) A  
 12 person commits the offense of criminal sale of dangerous  
 13 drugs if he sells, barter, exchanges, gives away, or offers  
 14 to sell, barter, exchange, or give away or manufactures,  
 15 prepares, cultivates, compounds, or processes any dangerous  
 16 drug, as defined in 50-32-101.  
 17 (2) A person convicted of criminal sale of an opiate,  
 18 as defined in 50-32-101(18), shall be imprisoned in the  
 19 state prison for a term of not less than 2 years or more  
 20 than life, except as provided in 46-18-222.  
 21 (3) A person convicted of criminal sale of a dangerous  
 22 drug included in Schedule I or Schedule II pursuant to  
 23 50-32-222 or 50-32-224 who has a prior conviction for  
 24 criminal sale of such a drug shall be imprisoned in the  
 25 state prison for a term of not less than 10 years or more

1 than life, except as provided in 46-18-222. Upon a third or  
 2 subsequent conviction for criminal sale of such a drug, he  
 3 shall be imprisoned in the state prison for a term of not  
 4 less than 20 years or more than life, except as provided in  
 5 46-18-222. Whenever a conviction under this subsection is  
 6 for criminal sale of such a drug to a minor, the sentence  
 7 shall include the restriction that the defendant be  
 8 ineligible for parole and participation in the prisoner  
 9 furlough program while serving his term.  
 10 ~~(4)~~ (4) A person convicted of criminal sale of  
 11 dangerous drugs not otherwise provided for in subsection (2)  
 12 or (3) shall be imprisoned in the state prison for a term of  
 13 not less than 1 year or more than life.  
 14 ~~(5)~~ (5) Practitioners and agents under their  
 15 supervision acting in the course of a professional practice,  
 16 as defined by 50-32-101, are exempt from this section."  
 17 Section 2. Section 46-18-201, MCA, is amended to read:  
 18 "46-18-201. Sentences that may be imposed. (1)  
 19 Whenever a person has been found guilty of an offense upon a  
 20 verdict or a plea of guilty, the court may:  
 21 (a) defer imposition of sentence, excepting sentences  
 22 for driving under the influence of alcohol or drugs, for a  
 23 period not exceeding 1 year for any misdemeanor or for a  
 24 period not exceeding 3 years for any felony. The sentencing  
 25 judge may impose upon the defendant any reasonable

1 restrictions or conditions during the period of the deferred  
2 imposition. Such reasonable restrictions or conditions may  
3 include:

- 4 (i) jail base release;
- 5 (ii) jail time not exceeding 90 days;
- 6 (iii) conditions for probation;
- 7 (iv) restitution;
- 8 (v) any other reasonable conditions considered  
9 necessary for rehabilitation or for the protection of  
10 society; or  
11 (vi) any combination of the above.

12 (b) suspend execution of sentence up to the maximum  
13 sentence allowed for the particular offense. The sentencing  
14 judge may impose on the defendant any reasonable  
15 restrictions during the period of suspended sentence. Such  
16 reasonable restrictions may include:

- 17 (i) jail base release;
- 18 (ii) jail time not exceeding 90 days;
- 19 (iii) conditions for probation;
- 20 (iv) restitution;
- 21 (v) any other reasonable conditions considered  
22 necessary for rehabilitation or for the protection of  
23 society;
- 24 (vi) any combination of the above.

25 (c) impose a fine as provided by law for the offense;

1 (d) commit the defendant to a correctional institution  
2 with or without a fine as provided by law for the offense;  
3 (e) impose any combination of subsections (1)(b),  
4 (1)(c), and (1)(d).

5 (2) If any restrictions or conditions imposed under  
6 subsection (1)(a) or (1)(b) are violated, any elapsed time,  
7 except jail time, shall not be a credit against the sentence  
8 unless the court orders otherwise.

9 (3) Except as provided in 46-18-222, the imposition or  
10 execution of the first 2 years of a sentence of imprisonment  
11 imposed under the following sections may not be deferred or  
12 suspended: 45-5-102(2), 45-5-103(2), 45-5-202(2),  
13 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3),  
14 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2)."

-End-

Approved by Committee  
on Judiciary

HOUSE BILL NO. 608

INTRODUCED BY GOULD, RAMIREZ, SCULLY, ELLIS, LORY, CONROY,  
SALES, MARKS, MOORE, HAND, O'CONNELL, LIEN, KEEDY,  
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ROSENTHAL, DAY, WOOD, BENNETT, JENSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE INCREASED  
PENALTIES FOR CRIMINAL SALE OF DANGEROUS DRUGS IN CERTAIN  
CIRCUMSTANCES; AMENDING SECTIONS 45-9-101 AND 46-18-201,  
MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal sale of dangerous drugs. (1) A  
person commits the offense of criminal sale of dangerous  
drugs if he sells, barter, exchange, gives away, or offers  
to sell, barter, exchange, or give away or manufactures,  
prepares, cultivates, compounds, or processes any dangerous  
drug, as defined in 50-32-101.

(2) A person convicted of criminal sale of an opiate,  
as defined in 50-32-101(18), shall be imprisoned in the  
state prison for a term of not less than 2 years or more  
than life, except as provided in 46-18-222.

~~(3) A person convicted of criminal sale of a dangerous  
drug included in Schedule I or Schedule II pursuant to  
50-32-222 or 50-32-224, EXCEPT MARIJUANA OR  
TETRAHYDROCANNABINOLS, who has a prior conviction for  
criminal sale of such a drug shall be imprisoned in the  
state prison for a term of not less than 10 years or more  
than life, except as provided in 46-18-222. Upon a third or  
subsequent conviction for criminal sale of such a drug, he  
shall be imprisoned in the state prison for a term of not  
less than 20 years or more than life, except as provided in  
46-18-222. Whenever a conviction under this subsection is  
for criminal sale of such a drug to a minor, the sentence  
shall include the restriction that the defendant be  
ineligible for parole and participation in the prisoner  
furlough program while serving his term.~~

~~(3)(4) A person convicted of criminal sale of  
dangerous drugs not otherwise provided for in subsection (2)  
or (3) shall be imprisoned in the state prison for a term of  
not less than 1 year or more than life.~~

~~(4)(5) Practitioners and agents under their  
supervision acting in the course of a professional practice,~~

1 as defined by 50-32-101, are exempt from this section."

2 Section 2. Section 46-18-201, MCA, is amended to read:

3 "46-18-201. Sentences that may be imposed. (1)  
4 Whenever a person has been found guilty of an offense upon a  
5 verdict or a plea of guilty, the court may:

6 (a) defer imposition of sentence, excepting sentences  
7 for driving under the influence of alcohol or drugs, for a  
8 period not exceeding 1 year for any misdemeanor or for a  
9 period not exceeding 3 years for any felony. The sentencing  
10 judge may impose upon the defendant any reasonable  
11 restrictions or conditions during the period of the deferred  
12 imposition. Such reasonable restrictions or conditions may  
13 include:

- 14 (i) jail base release;
- 15 (ii) jail time not exceeding 90 days;
- 16 (iii) conditions for probation;
- 17 (iv) restitution;
- 18 (v) any other reasonable conditions considered  
19 necessary for rehabilitation or for the protection of  
20 society; or
- 21 (vi) any combination of the above.

22 (b) suspend execution of sentence up to the maximum  
23 sentence allowed for the particular offense. The sentencing  
24 judge may impose on the defendant any reasonable  
25 restrictions during the period of suspended sentence. Such

1 reasonable restrictions may include:

- 2 (i) jail base release;
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7 necessary for rehabilitation or for the protection of  
8 society;

- 9 (vi) any combination of the above.
- 10 (c) impose a fine as provided by law for the offense;
- 11 (d) commit the defendant to a correctional institution  
12 with or without a fine as provided by law for the offense;
- 13 (e) impose any combination of subsections (1)(b),  
14 (1)(c), and (1)(d).

15 (2) If any restrictions or conditions imposed under  
16 subsection (1)(a) or (1)(b) are violated, any elapsed time,  
17 except jail time, shall not be a credit against the sentence  
18 unless the court orders otherwise.

19 (3) Except as provided in 46-18-222, the imposition or  
20 execution of the first 2 years of a sentence of imprisonment  
21 imposed under the following sections may not be deferred or  
22 suspended: 45-5-102(2), 45-5-103(2), 45-5-202(2),  
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-End-

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 3 SALES, MARKS, MOORE, HAND, O'CONNELL, LIEN, KEEDY,  
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 8 ~~TETRAHYDROCANNABINOLS, who has a prior conviction for~~  
 9 ~~criminal sale of such a drug shall be imprisoned in the~~  
 10 ~~state prison for a term of not less than 10 years or more~~  
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-End-



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 50-32-222 or 50-32-224, EXCEPT MARIJUANA OR  
 TETRAHYDROCANNABINOLS, who has a prior conviction for  
 criminal sale of such a drug shall be imprisoned in the  
 state prison for a term of not less than 5 years or more  
 than life, except as provided in 46-18-222. Upon a third or  
 subsequent conviction for criminal sale of such a drug, he  
 shall be imprisoned in the state prison for a term of not  
 less than 10 years or more than life, except as provided  
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24 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2)."

-End-

March 8, 1979

SENATE STANDING COMMITTEE REPORT  
(Judiciary)

That House Bill No. 608 be amended as follows:

1. Page 2, line 7.  
Following: "EXCEPT"  
Strike: "MARIHUANA"  
Insert: "marijuana"
  
2. Page 2, line 10.  
Following: "than"  
Strike: "10"  
Insert: "5"
  
3. Page 2, line 14.  
Following: "less than"  
Strike: "20"  
Insert: "10"