

HOUSE BILL NO. 90

Introduced: 01/05/83

Referred to Committee on Human services: 01/05/83

Hearing: 2/4/83

report: 02/10/83, Do Pass, As Amended

2nd Reading: 02/12/83, Do Pass

3rd Reading: 02/15/83, Do Pass

Transmitted to Senate: 2/15/83

Referred to Committee on Public Health, Welfare, & Safety:

02/16/83

Hearing: 3/2/83

Report: 03/05/83, Be not Concurred In. Report Adopted.

Bill Killed

1 *House* BILL NO. *90*
2 INTRODUCED BY *Frank Keenan Nixon D'Amico*
3 *Julia Stobbe Under Vincent Beane Huntel*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE USE OF
5 SODIUM PENTOBARBITAL BY HUMANE SOCIETIES TO EUTHANIZE
6 DOMESTIC PETS AND ANIMALS; AMENDING SECTION 50-32-101, MCA."

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

9 Section 1. Section 50-32-101, MCA, is amended to read:
10 "50-32-101. Definitions. As used in this chapter, the
11 following definitions apply:

12 (1) "Administer" means the direct application of a
13 dangerous drug, whether by injection, inhalation, ingestion,
14 or any other means, to the body of a patient or research
15 subject by:

16 (a) a practitioner (or by his authorized agent); or
17 (b) the patient or research subject at the direction
18 and in the presence of the practitioner.

19 (2) "Agent" means an authorized person who acts on
20 behalf of or at the direction of a manufacturer,
21 distributor, or dispenser. It does not include a common or
22 contract carrier, public warehouseman, or employee of the
23 carrier or warehouseman.

24 (3) "Board" means the board of pharmacists provided
25 for in 2-15-1843.

1 (4) "Bureau" means the drug enforcement
2 administration, United States department of justice, or its
3 successor agency.

4 (5) "Counterfeit substance" means a dangerous drug
5 which or the container or labeling of which without
6 authorization bears the trademark, trade name, or other
7 identifying mark, imprint, number, or device or any likeness
8 thereof of a manufacturer, distributor, or dispenser other
9 than the person who in fact manufactured, distributed, or
10 dispensed the drug.

11 (6) "Dangerous drug" means a drug, substance, or
12 immediate precursor in Schedules I through V hereinafter set
13 forth.

14 (7) "Deliver" or "delivery" means the actual,
15 constructive, or attempted transfer from one person to
16 another of a dangerous drug, whether or not there is an
17 agency relationship.

18 (8) "Department" means the department of commerce
19 provided for in Title 2, chapter 15, part 18.

20 (9) "Dispense" means to deliver a dangerous drug to an
21 ultimate user or research subject by or pursuant to the
22 lawful order of a practitioner, including the prescribing,
23 administering, packaging, labeling, or compounding necessary
24 to prepare the drug for that delivery.

25 (10) "Dispenser" means a practitioner who dispenses.

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(11) "Distribute" means to deliver other than by administering or dispensing a dangerous drug.

(12) "Distributor" means a person who distributes.

(13) (a) "Drug" means:

(i) a substance recognized as a drug in the official United States Pharmacopoeia/National Formulary or any supplement to it;

(ii) a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(iii) a substance (other than food) intended to affect the structure or any function of the body of man or animals; and

(iv) a substance intended for use as a component of any article specified in (a)(i), (a)(ii), or (a)(iii) of this subsection.

(b) "Drug" does not include a device or its components, parts, or accessories.

~~(14) "Humane society" means an entity that provides, in a responsible manner, shelter, food, care, or other services for domestic pets and animals which may be lost, unwanted, injured, sick, or homeless.~~

~~(14)(15)~~ "Immediate precursor" means a substance which the board of pharmacists finds and by rule designates as being the principal compound commonly used or produced

primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a dangerous drug, the control of which is necessary to prevent, curtail, or limit manufacture.

~~(15)(16)~~ (a) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a dangerous drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container.

(b) "Manufacture" does not include the preparation or compounding of a dangerous drug by an individual for his own use or the preparation, compounding, packaging, or labeling of a dangerous drug:

(i) by a practitioner as an incident to his administering or dispensing of a dangerous drug in the course of his professional practice; or

(ii) by a practitioner or his authorized agent under his supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.

~~(16)(17)~~ "Marijuana (marihuana)" means all plant material from the genus cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of

1 germination.

2 ~~(17)~~(18) "Narcotic drug" means any of the following,
3 whether produced directly or indirectly by extraction from
4 substances of vegetable origin, independently by means of
5 chemical synthesis, or by a combination of extraction and
6 chemical synthesis:

7 (a) opium and opiate and any salt, compound,
8 derivative, or preparation of opium or opiate;

9 (b) any salt, compound, isomer, derivative, or
10 preparation thereof which is chemically equivalent or
11 identical with any of the drugs referred to in ~~(17)~~(18)(a)
12 of this section, but not including the isoquinoline
13 alkaloids of opium;

14 (c) opium poppy and poppy straw; or

15 (d) coca leaves and any salt, compound, derivative, or
16 preparation of coca leaves and any salt, compound, isomer,
17 derivative, or preparation thereof which is chemically
18 equivalent or identical with any of these drugs, but not
19 including decocainized coca leaves or extractions of coca
20 leaves which do not contain cocaine or ecgonine.

21 ~~(18)~~(19) "Opiate" means any drug having an
22 addiction-forming or addiction-sustaining liability similar
23 to morphine or being capable of conversion into a drug
24 having addiction-forming or addiction-sustaining liability.
25 It does not include, unless specifically designated as a

1 dangerous drug under 50-32-202, the dextrorotatory isomer of
2 3-methoxy-n-methylmorphinan and its salts
3 (dextromethorphan). It does include its racemic and
4 levorotatory forms.

5 ~~(19)~~(20) "Opium poppy" means the plant of the species
6 papaver somniferum L., except its seeds.

7 ~~(20)~~(21) "Person" means an individual, corporation,
8 government or governmental subdivision or agency, business
9 trust, estate, trust, partnership, association, or any other
10 legal entity.

11 ~~(21)~~(22) "Poppy straw" means all parts, except the
12 seeds, of the opium poppy after mowing.

13 ~~(22)~~(23) "Practitioner" means:

14 (a) a physician, dentist, veterinarian, scientific
15 investigator, or other person licensed, registered, or
16 otherwise permitted to distribute, dispense, or conduct
17 research with respect to or to administer a dangerous drug
18 in the course of professional practice or research in this
19 state; and

20 (b) a pharmacy or other institution licensed,
21 registered, or otherwise permitted to distribute, dispense,
22 or conduct research with respect to or to administer a
23 dangerous drug in the course of professional practice or
24 research in this state.

25 ~~(23)~~(24) The term "prescription" is given the meaning

1 it has in 37-7-101.

2 ~~(24)~~(25) "Production" includes the manufacture,
3 planting, cultivation, growing, or harvesting of a substance
4 or drug regulated under the provisions of this chapter.

5 ~~(25)~~(26) "State", when applied to a part of the United
6 States, includes any state, district, commonwealth,
7 territory, insular possession thereof, and any area subject
8 to the legal authority of the United States of America.

9 ~~(26)~~(27) "Ultimate user" means a person who lawfully
10 possesses a dangerous drug for his own use or for the use of
11 a member of his household or for administering to an animal
12 owned by him or by a member of his household."

13 NEW SECTION. Section 2. Sodium pentobarbital permit
14 — rulemaking. (1) The board shall issue to any humane
15 society that makes proper application therefor a limited
16 permit to buy, possess, and use sodium pentobarbital for the
17 sole purpose of euthanizing injured, sick, homeless, or
18 unwanted domestic pets and animals.

19 (2) The board may impose such terms and conditions on
20 a permit as it considers necessary to ensure the proper use
21 and handling of sodium pentobarbital.

22 (3) The board shall adopt rules to implement this
23 section.

24 NEW SECTION. Section 3. Codification instruction.
25 Section 2 is intended to be codified as an integral part of

1 Title 50, chapter 32, and the provisions of Title 50,
2 chapter 32, apply to section 2.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 90

3 House Human services Committee

4
5 House Bill 90 requires a statement of Intent because it
6 requires the Board of Pharmacists to adopt rules for the
7 sale to, and possession and use of, sodium pentobarbital by
8 humane societies.

9 The Legislature contemplates that the rules should
10 consider procedures for application by humane societies,
11 among other things, and:

12 1. that the limited permit should be granted only to
13 those humane societies whose personnel have the direction of
14 a veterinarian or other person licensed to buy, possess, and
15 use the drug;

16 2. that procedures be implemented to insure adequate
17 direction be given by such licensed person in the use of the
18 drug, including proficiency requirements for persons
19 administering and having access to the drug;

20 3. that standards for safe storage of the drug be
21 considered;

22 4. that procedures for keeping accurate records of the
23 purchase, storage, and use be kept by humane societies
24 granted the limited permit;

25 5. establish standards for determining whether an

1 entity falls within the definition of "humane society";

2 6. establish standards for determining what terms and
3 conditions should be imposed on a permit; and

4 7. establish and charge a fee commensurate with the
5 cost of issuing the permit.

Approved by Comm. on Human Services

HOUSE BILL NO. 90

INTRODUCED BY HARPER, KEENAN, NILSON,

O'CONNELL, SALES, STOBIE, VELEBER,

VINCENT, REAM, HEMSTAD

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE USE OF
~~EUTHANIZING SUBSTANCES CONTAINING~~ SODIUM PENTOBARBITAL BY
~~INCORPORATED HUMANE SOCIETIES AND ANIMAL CONTROL SHELTERS~~ TO
EUTHANIZE DOMESTIC PETS AND ANIMALS; ~~DEFINING HUMANE~~
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(b) the patient or research subject at the direction
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(2) "Agent" means an authorized person who acts on
behalf of or at the direction of a manufacturer,
distributor, or dispenser. It does not include a common or

contract carrier, public warehouseman, or employee of the
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(3) "Board" means the board of pharmacists provided
for in 2-15-1843.

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administration, United States department of justice, or its
successor agency.

(5) "Counterfeit substance" means a dangerous drug
which or the container or labeling of which without
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than the person who in fact manufactured, distributed, or
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(6) "Dangerous drug" means a drug, substance, or
immediate precursor in Schedules I through V hereinafter set
forth.

(7) "Deliver" or "delivery" means the actual,
constructive, or attempted transfer from one person to
another of a dangerous drug, whether or not there is an
agency relationship.

(8) "Department" means the department of commerce
provided for in Title 2, chapter 15, part 18.

(9) "Dispense" means to deliver a dangerous drug to an
ultimate user or research subject by or pursuant to the

1 lawful order of a practitioner, including the prescribing,
2 administering, packaging, labeling, or compounding necessary
3 to prepare the drug for that delivery.

4 (10) "Dispenser" means a practitioner who dispenses.

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10 United States Pharmacopoeia/National Formulary or any
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14 or animals;

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16 the structure or any function of the body of man or animals;
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18 (iv) a substance intended for use as a component of any
19 article specified in (a)(i), (a)(ii), or (a)(iii) of this
20 subsection.

21 (b) "Drug" does not include a device or its
22 components, parts, or accessories.

23 ~~(14) "Humane society" means an entity that provides, in~~
24 ~~a responsible manner, shelter, food, care, or other services~~
25 ~~for domestic pets and animals which may be lost, unwanted,~~

1 ~~injured, sick, or homeless, and includes those entities~~
2 ~~commonly referred to as humane societies, incorporated~~
3 ~~humane societies, animal shelters, animal control shelters,~~
4 ~~and city and county pounds.~~

5 ~~(14)(15)~~ "Immediate precursor" means a substance which
6 the board of pharmacists finds and by rule designates as
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16 (b) any salt, compound, isomer, derivative, or

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18 identical with any of the drugs referred to in ~~(17)~~~~(18)~~(a)

19 of this section, but not including the isoquinoline

20 alkaloids of opium;

21 (c) opium poppy and poppy straw; or

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20 ~~NEW SECTION.~~ Section 2. ~~Sodium--pentobarbital--permitt~~
21 ~~EUTHANIZING__SUBSTANCES__LICENSE~~ -- rulemaking. (1) The board
22 shall issue to any humane society that makes proper
23 application therefor a limited ~~permitt LICENSE~~ to buy,
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25 pentobarbital for the sole purpose of euthanizing injured,

1 sick, homeless, or unwanted domestic pets and animals.

2 (2) The board may impose such terms and conditions on
3 a ~~permitt LICENSE~~ as it considers necessary to ensure the
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6 (3) The board shall adopt rules to implement this
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THIRD READING

HB 90

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25 in the course of professional practice or research in this

1 state; and

2 (b) a pharmacy or other institution licensed,
3 registered, or otherwise permitted to distribute, dispense,
4 or conduct research with respect to or to administer a
5 dangerous drug in the course of professional practice or
6 research in this state.

7 {23}{24} The term "prescription" is given the meaning
8 it has in 37-7-101.

9 {24}{25} "Production" includes the manufacture,
10 planting, cultivation, growing, or harvesting of a substance
11 or drug regulated under the provisions of this chapter.

12 {25}{26} "State", when applied to a part of the United
13 States, includes any state, district, commonwealth,
14 territory, insular possession thereof, and any area subject
15 to the legal authority of the United States of America.

16 {26}{27} "Ultimate user" means a person who lawfully
17 possesses a dangerous drug for his own use or for the use of
18 a member of his household or for administering to an animal
19 owned by him or by a member of his household."

20 ~~NEW SECTION. Section 2. Sodium--pentobarbital--permit~~
21 ~~EUTHANIZING SUBSTANCES LICENSE~~ -- rulemaking. (1) The board
22 shall issue to any humane society that makes proper
23 application therefor a limited permit ~~LICENSE~~ to buy,
24 possess, and use ~~EUTHANIZING SUBSTANCES CONTAINING~~ sodium
25 pentobarbital for the sole purpose of euthanizing injured,

1 sick, homeless, or unwanted domestic pets and animals.

2 (2) The board may impose such terms and conditions on
3 a permit ~~LICENSE~~ as it considers necessary to ensure the
4 proper use and handling of ~~EUTHANIZING SUBSTANCES CONTAINING~~
5 sodium pentobarbital.

6 (3) The board shall adopt rules to implement this
7 section.

8 ~~NEW SECTION. Section 3. Codification~~ instruction.
9 Section 2 is intended to be codified as an integral part of
10 Title 50, chapter 32, and the provisions of Title 50,
11 chapter 32, apply to section 2.

-End-