

HOUSE BILL NO. 150

**INTRODUCED BY PECK, SWIFT, H. HAMMOND, BACHINI,
BARDANOUVE, CHRISTIAENS, SANDS**

IN THE HOUSE

January 10, 1983	Introduced and referred to Committee on Judiciary.
January 14, 1983	Committee recommend bill do pass as amended. Report adopted.
January 15, 1983	Bill printed and placed on members' desks.
January 17, 1983	Second reading, do pass.
January 18, 1983	Considered correctly engrossed.
January 19, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 20, 1983	Introduced and referred to Committee on Judiciary.
March 2, 1983	Committee recommend bill be concurrent in as amended. Report adopted.
March 4, 1983	Second reading, concurred in.
March 7, 1983	Third reading, concurred in. Ayes, 42; Noes, 5.

IN THE HOUSE

March 7, 1983	Returned to House with amendments.
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March 9, 1983

Second reading, amendments
not concurred in.

On motion, Conference
Committee requested.

March 10, 1983

Conference Committee
appointed.

April 13, 1983

Conference Committee
reported.

April 14, 1983

Second reading, report
adopted.

Third reading, report
adopted.

April 16, 1983

Conference Committee report
adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 150
 2 INTRODUCED BY Bob Swift Phil Hammond Robert Gachin
 3 Budenne Christiane Lehr
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GRANT TO JUSTICES'
 5 COURTS JURISDICTION OVER FIRST OFFENSES OF CRIMINAL
 6 POSSESSION OF MARIJUANA AND TO ALTER THE PENALTY; AMENDING
 7 SECTIONS 3-10-303 AND 45-9-102, MCA; REPEALING SECTION
 8 45-9-201, MCA."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 3-10-303, MCA, is amended to read:
 12 "3-10-303. Criminal jurisdiction. The justices' courts
 13 have jurisdiction of public offenses committed within the
 14 respective counties in which such courts are established as
 15 follows:
 16 (1) jurisdiction of all misdemeanors punishable by a
 17 fine not exceeding \$500 or imprisonment not exceeding 6
 18 months or both such fine and imprisonment, ~~excluding~~
 19 ~~jurisdiction in cases commenced under Title 45, chapter 9,~~
 20 ~~except to act as examining and committing courts and to~~
 21 ~~conduct preliminary hearings as provided in subsection (4);~~
 22 (2) jurisdiction of all violations of fish and game
 23 statutes punishable by a fine of not more than \$1,000 or
 24 imprisonment for not more than 6 months, or both;
 25 (3) concurrent jurisdiction with district courts of

1 all misdemeanors punishable by a fine only not exceeding
 2 \$1,500; and
 3 (4) jurisdiction to act as examining and committing
 4 courts and for such purpose to conduct preliminary
 5 hearings."
 6 Section 2. Section 45-9-102, MCA, is amended to read:
 7 "45-9-102. Criminal possession of dangerous drugs. (1)
 8 A person commits the offense of criminal possession of
 9 dangerous drugs if he possesses any dangerous drug, as
 10 defined in 50-32-101.
 11 (2) Any person convicted of criminal possession of
 12 marijuana or its derivatives in an amount the aggregate
 13 weight of which does not exceed 60 grams of marijuana or 1
 14 gram of hashish is, for the first offense, guilty of a
 15 misdemeanor and punishable by a fine not to exceed ~~\$1,000~~
 16 ~~\$500~~ or imprisonment in the county jail for a term not to
 17 exceed ~~1-year~~ 6 months or both such fine and imprisonment. A
 18 person convicted of a second or subsequent offense under
 19 this subsection is punishable by a fine not to exceed \$1,000
 20 or imprisonment in the county jail for a term not to exceed
 21 1 year or in the state prison for a term not to exceed 3
 22 years or both such fine and imprisonment.
 23 (3) A person convicted of criminal possession of an
 24 opiate, as defined in 50-32-101(18), shall be imprisoned in
 25 the state prison for a term of not less than 2 years or more

1 than 5 years and may be fined not more than \$50,000, except
2 as provided in 46-18-222.

3 (4) A person convicted of criminal possession of
4 dangerous drugs not otherwise provided for in subsection (2)
5 or (3) shall be imprisoned in the state prison for a term
6 not to exceed 5 years or be fined an amount not to exceed
7 \$50,000, or both.

8 ~~(5) A person of the age of 21 years or under convicted~~
9 ~~of a first violation under this section shall be presumed to~~
10 ~~be entitled to a deferred imposition of sentences~~

11 (6)(5) Ultimate users and practitioners and agents
12 under their supervision acting in the course of a
13 professional practice, as defined by 50-32-101, are exempt
14 from this section."

15 NEW SECTION. Section 3. Repealer. Section 45-9-201,
16 MCA, is repealed.

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 150

INTRODUCED BY PECK, SWIFT, H. HAMMOND,
BACHINI, BARDANOUVE, CHRISTIAENS, SANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GRANT TO JUSTICES"
COURTS JURISDICTION OVER FIRST OFFENSES OF CRIMINAL
POSSESSION OF MARIJUANA AND TO ALTER THE PENALTY; AND TO
EXEMPT FROM THE PROVISIONS CRIMINALIZING POSSESSION OF
DANGEROUS DRUGS LAW ENFORCEMENT PERSONNEL ACTING WITHIN THE
SCOPE OF THEIR DUTY; AMENDING SECTIONS 3-10-303 AND
45-9-102, MCA; REPEALING SECTION 45-9-201, MCA."

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

Section 1. Section 3-10-303, MCA, is amended to read:

"3-10-303. Criminal Jurisdiction. The justices' courts
have jurisdiction of public offenses committed within the
respective counties in which such courts are established as
follows:

(1) jurisdiction of all misdemeanors punishable by a
fine not exceeding \$500 or imprisonment not exceeding 6
months or both such fine and imprisonment ~~excluding~~
~~jurisdiction in cases commenced under title 45, chapter 9,~~
~~except to act as examining and committing courts and to~~
~~conduct preliminary hearings as provided in subsection (4);~~

(2) jurisdiction of all violations of fish and game

statutes punishable by a fine of not more than \$1,000 or
imprisonment for not more than 6 months, or both;

(3) concurrent jurisdiction with district courts of
all misdemeanors punishable by a fine only not exceeding
\$1,500; and

(4) jurisdiction to act as examining and committing
courts and for such purpose to conduct preliminary
hearings."

Section 2. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1)

A person commits the offense of criminal possession of
dangerous drugs if he possesses any dangerous drug, as
defined in 50-32-101.

(2) Any person convicted of criminal possession of
marijuana or its derivatives in an amount the aggregate
weight of which does not exceed 60 grams of marijuana or 1
gram of hashish is, for the first offense, guilty of a
misdemeanor and ~~punishable by a fine not to exceed \$1,000~~
~~\$500 or imprisonment in the county jail for a term not to~~
~~exceed 1 year 6 months or both such fine and imprisonment~~
~~SHALL BE PUNISHED BY A FINE OF NOT LESS THAN \$100 OR MORE~~
~~THAN \$500 AND BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT~~
~~LESS THAN 1 DAY OR MORE THAN 6 MONTHS. THE MINIMUM FINE AND~~
~~JAIL SENTENCE MUST BE IMPOSED AS CONDITIONS OF A SUSPENDED~~
~~OR DEFERRED SENTENCE.~~ A person convicted of a second or

SECOND READING

1 subsequent offense under this subsection is punishable by a
 2 fine not to exceed \$1,000 or imprisonment in the county jail
 3 for a term not to exceed 1 year or in the state prison for a
 4 term not to exceed 3 years or both such fine and
 5 imprisonment.

6 (3) A person convicted of criminal possession of an
 7 opiate, as defined in 50-32-101(18), shall be imprisoned in
 8 the state prison for a term of not less than 2 years or more
 9 than 5 years and may be fined not more than \$50,000, except
 10 as provided in 46-18-222.

11 (4) A person convicted of criminal possession of
 12 dangerous drugs not otherwise provided for in subsection (2)
 13 or (3) shall be imprisoned in the state prison for a term
 14 not to exceed 5 years or be fined an amount not to exceed
 15 \$50,000, or both.

16 ~~(5) A person of the age of 21 years or under convicted~~
 17 ~~of a first violation under this section shall be presumed to~~
 18 ~~be entitled to a deferred imposition of sentence.~~

19 (5) A PERSON OF THE AGE OF 21 YEARS OR UNDER CONVICTED
 20 OF A FIRST VIOLATION UNDER THIS SECTION SHALL BE PRESUMED TO
 21 BE ENTITLED TO A DEFERRED IMPOSITION OF SENTENCE.

22 (6) LAW ENFORCEMENT PERSONNEL ACTING WITHIN THE SCOPE
 23 OF THEIR DUTIES ARE EXEMPT FROM THIS SECTION.

24 ~~(6)(5)(7)~~ Ultimate users and practitioners and agents
 25 under their supervision acting in the course of a

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

3 NEW SECTION. Section 3. Repealer. Section 45-9-201,
 4 MCA, is repealed.

-End-

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INTRODUCED BY PECK, SWIFT, H. HAMMOND,
BACHINI, BARDANOUVE, CHRISTIAENS, SANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GRANT TO JUSTICES' COURTS JURISDICTION OVER FIRST OFFENSES OF CRIMINAL POSSESSION OF MARIJUANA AND TO ALTER THE PENALTY; AND TO EXEMPT FROM THE PROVISIONS CRIMINALIZING POSSESSION OF DANGEROUS DRUGS LAW ENFORCEMENT PERSONNEL ACTING WITHIN THE SCOPE OF THEIR DUTY; AMENDING SECTIONS 3-10-303 AND 45-9-102, MCA; REPEALING SECTION 45-9-201, MCA."

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Section 1. Section 3-10-303, MCA, is amended to read:

"3-10-303. Criminal jurisdiction. The justices' courts have jurisdiction of public offenses committed within the respective counties in which such courts are established as follows:

(1) jurisdiction of all misdemeanors punishable by a fine not exceeding \$500 or imprisonment not exceeding 6 months or both such fine and imprisonment ~~excluding jurisdiction in cases commenced under Title 45, chapter 9, except to act as examining and committing courts and to conduct preliminary hearings as provided in subsection (4);~~

(2) jurisdiction of all violations of fish and game

statutes punishable by a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both;

(3) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine only not exceeding \$1,500; and

(4) jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings."

Section 2. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1)

A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug, as defined in 50-32-101.

(2) Any person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and ~~punishable by a fine not to exceed \$1,000 or \$500 or imprisonment in the county jail for a term not to exceed 1 year 6 months or both such fine and imprisonment SHALL BE PUNISHED BY A FINE OF NOT LESS THAN \$100 OR MORE THAN \$500 AND BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT LESS THAN 1 DAY OR MORE THAN 6 MONTHS. THE MINIMUM FINE AND JAIL SENTENCE MUST BE IMPOSED AS CONDITIONS OF A SUSPENDED OR DEFERRED SENTENCE.~~ A person convicted of a second or

1 subsequent offense under this subsection is punishable by a
 2 fine not to exceed \$1,000 or imprisonment in the county jail
 3 for a term not to exceed 1 year or in the state prison for a
 4 term not to exceed 3 years or both such fine and
 5 imprisonment.

6 (3) A person convicted of criminal possession of an
 7 opiate, as defined in 50-32-101(18), shall be imprisoned in
 8 the state prison for a term of not less than 2 years or more
 9 than 5 years and may be fined not more than \$50,000, except
 10 as provided in 46-18-222.

11 (4) A person convicted of criminal possession of
 12 dangerous drugs not otherwise provided for in subsection (2)
 13 or (3) shall be imprisoned in the state prison for a term
 14 not to exceed 5 years or be fined an amount not to exceed
 15 \$50,000, or both.

16 ~~(5) A person of the age of 21 years or under convicted~~
 17 ~~of a first violation under this section shall be presumed to~~
 18 ~~be entitled to a deferred imposition of sentence.~~

19 (5) A PERSON OF THE AGE OF 21 YEARS OR UNDER CONVICTED
 20 OF A FIRST VIOLATION UNDER THIS SECTION SHALL BE PRESUMED TO
 21 BE ENTITLED TO A DEFERRED IMPOSITION OF SENTENCE.

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 23 OF THEIR DUTIES ARE EXEMPT FROM THIS SECTION.

24 ~~(6)(5)(7)~~ Ultimate users and practitioners and agents
 25 under their supervision acting in the course of a

1 professional practice, as defined by 50-32-101, are exempt
 2 from this section."
 3 NEW SECTION. Section 3. Repealer. Section 45-9-201,
 4 MCA, is repealed.

-End-

March 2, 1983

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 150 be amended as follows:

1. Title, lines 7 through 10.
Strike: "AND TO" through "DUTY;"
2. Page 2, line 23.
Strike: "LESS THAN 1 DAY OR"
Strike: "AND"
3. Page 2, line 24.
Strike: "JAIL SENTENCE"
Following: "AS"
Insert: "A"
Strike: "CONDITIONS"
Insert: "CONDITION"
4. Page 3, line 21.
Following: "SENTENCE"
Insert: "OF IMPRISONMENT"
5. Page 3, line 22.
Strike: subsection (6) in its entirety.
Re-number: subsequent subsections.

HOUSE BILL NO. 150

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BACHINI, BARDANOUVE, CHRISTIAENS, SANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GRANT TO JUSTICES' COURTS JURISDICTION OVER FIRST OFFENSES OF CRIMINAL POSSESSION OF MARIJUANA AND TO ALTER THE PENALTY; ~~AND TO EXEMPT FROM THE PROVISIONS CRIMINALIZING POSSESSION OF DANGEROUS DRUGS LAW ENFORCEMENT PERSONNEL ACTING WITHIN THE SCOPE OF THEIR DUTY~~ AMENDING SECTIONS 3-10-303 AND 45-9-102, MCA; REPEALING SECTION 45-9-201, MCA."

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(1) jurisdiction of all misdemeanors punishable by a fine not exceeding \$500 or imprisonment not exceeding 6 months or both such fine and imprisonment ~~excluding jurisdiction in cases commenced under Title 45, chapter 9, except to act as examining and committing courts and to conduct preliminary hearings as provided in subsection (4);~~

(2) jurisdiction of all violations of fish and game

statutes punishable by a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both;

(3) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine only not exceeding \$1,500; and

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Section 2. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug, as defined in 50-32-101.

(2) Any person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and punishable by a fine not to exceed \$1,000 ~~or imprisonment in the county jail for a term not to exceed 1 year 6 months or both such fine and imprisonment~~ SHALL BE PUNISHED BY A FINE OF NOT LESS THAN \$100 OR MORE THAN \$500 AND BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT LESS THAN 1 DAY OR MORE THAN 6 MONTHS. THE MINIMUM FINE AND ~~THE~~ SENTENCE MUST BE IMPOSED AS A ~~SENTENCES~~ CONDITION OF A SUSPENDED OR DEFERRED SENTENCE. A person convicted of a

second or subsequent offense under this subsection is punishable by a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or both such fine and imprisonment.

(3) A person convicted of criminal possession 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 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (2) or (3) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

~~(5) A person of the age of 21 years or under convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence.~~

~~(5) A PERSON OF THE AGE OF 21 YEARS OR UNDER CONVICTED OF A FIRST VIOLATION UNDER THIS SECTION SHALL BE PRESUMED TO BE ENTITLED TO A DEFERRED IMPOSITION OF SENTENCE OF IMPRISONMENT.~~

~~(6) LAW ENFORCEMENT PERSONNEL ACTING WITHIN THE SCOPE OF THEIR DUTIES ARE EXEMPT FROM THIS SECTION.~~

~~(6) (5) (7) (6)~~ Ultimate users and practitioners and

agents under their supervision acting in the course of a professional practice, as defined by 50-32-101, are exempt from this section."

NEW SECTION. Section 3. Repealer. Section 45-9-201, MCA, is repealed.

-End-

April 12, 1983

CONFERENCE COMMITTEE REPORT ON
AMENDMENTS TO HOUSE BILL 150
(Report No. 1, 8:00 a.m.)

Mr. Speaker:

We, your Conference Committee on House Bill 150, met and considered Senate Judiciary Committee amendments to House Bill 150 dated March 2, 1983.

We recommend as follows:

That the House accede to Senate Judiciary Committee amendments; and


That this Conference Committee Report be adopted.


CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

No changes needed on reference copy.

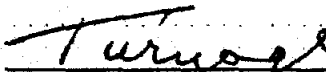
FOR THE HOUSE



PECK, CHAIR

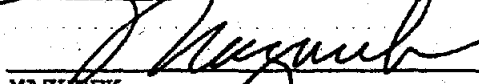

D. BROWN


IVERSON

FOR THE SENATE


TURNAGE, CHAIR


HAZELBAKER


MAZUREK