

SENATE BILL NO. 261

INTRODUCED BY B. BROWN, GAGE, LYNCH,  
HOFMAN, HAFHEY, WEEDING

IN THE SENATE

FEBRUARY 2, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON JUDICIARY.

FEBRUARY 17, 1987                   COMMITTEE RECOMMEND BILL  
  DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 18, 1987                   PRINTING REPORT.

FEBRUARY 19, 1987                   SECOND READING, DO PASS AS AMENDED.

FEBRUARY 20, 1987                   ENGROSSING REPORT.

FEBRUARY 21, 1987                   THIRD READING, PASSED.  
  AYES, 48; NOES, 1.

  TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON JUDICIARY.

MARCH 18, 1987                    COMMITTEE RECOMMEND BILL BE  
  CONCURRED IN AS AMENDED. REPORT  
  ADOPTED.

MARCH 28, 1987                    SECOND READING, CONCURRED IN.

MARCH 30, 1987                    THIRD READING, CONCURRED IN.  
  AYES, 96; NOES, 0.

  RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1987                    RECEIVED FROM HOUSE.

  SECOND READING, AMENDMENTS  
  CONCURRED IN.

APRIL 4, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1  
 2 INTRODUCED BY Senate BILL NO. 266  
Bob Brown Supriya Hoffman  
Hoffman

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE PENALTY  
 5 FOR AN ADULT CONVICTED OF SALE OF DANGEROUS DRUGS IF THE  
 6 SALE WAS TO A MINOR ON OR WITHIN PROXIMITY TO THE REAL  
 7 PROPERTY COMPRISING A SCHOOL; AND AMENDING SECTION 45-9-101,  
 8 MCA."  
 9

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

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

12 "45-9-101. Criminal sale of dangerous drugs. (1) A  
 13 person commits the offense of criminal sale of dangerous  
 14 drugs if he sells, barter, exchanges, gives away, or offers  
 15 to sell, barter, exchange, or give away or manufactures,  
 16 prepares, cultivates, compounds, or processes any dangerous  
 17 drug, as defined in 50-32-101.

18 (2) A person convicted of criminal sale of an opiate,  
 19 as defined in 50-32-101(19), shall be imprisoned in the  
 20 state prison for a term of not less than 2 years or more  
 21 than life and may be fined not more than \$50,000, except as  
 22 provided in 46-18-222.

23 (3) A person convicted of criminal sale of a dangerous  
 24 drug included in Schedule I or Schedule II pursuant to  
 25 50-32-222 or 50-32-224, except marijuana or

1 tetrahydrocannabinols, who has a prior conviction for  
 2 criminal sale of such a drug shall be imprisoned in the  
 3 state prison for a term of not less than 10 years or more  
 4 than life and may be fined not more than \$50,000, except as  
 5 provided in 46-18-222. Upon a third or subsequent conviction  
 6 for criminal sale of such a drug, he shall be imprisoned in  
 7 the state prison for a term of not less than 20 years or  
 8 more than life and may be fined not more than \$50,000,  
 9 except as provided in 46-18-222. Whenever a conviction under  
 10 this subsection is for criminal sale of such a drug to a  
 11 minor, the sentence shall include the restriction that the  
 12 defendant be ineligible for parole and participation in the  
 13 supervised release program while serving his term.

14 (4) A person convicted of criminal sale of dangerous  
 15 drugs not otherwise provided for in subsection (2) or (3)  
 16 shall be imprisoned in the state prison for a term of not  
 17 less than 1 year or more than life or be fined an amount of  
 18 not more than \$50,000, or both.

19 (5) An adult convicted of criminal sale of dangerous  
 20 drugs to a minor, which sale took place on or within 1,000  
 21 feet of the real property comprising an elementary or  
 22 secondary school, shall be sentenced as follows:

23 (a) If convicted pursuant to subsection (2), the  
 24 person shall be imprisoned in the state prison for not less  
 25 than 4 years or more than life and may be fined not more



1 than \$50,000, or both, except as provided in 46-18-222;

2 (b) If convicted pursuant to subsection (3), for a  
3 second offense the person shall be imprisoned in the state  
4 prison for not less than 20 years or more than life and may  
5 be fined not more than \$50,000, or both, except as provided  
6 in 46-18-222;

7 (c) If convicted pursuant to subsection (3), for a  
8 third or subsequent offense the person shall be imprisoned  
9 in the state prison for not less than 40 years or more than  
10 life and may be fined not more than \$50,000, or both, except  
11 as provided in 46-18-222; or

12 (d) If convicted pursuant to subsection (4), the  
13 person shall be imprisoned in the state prison for not less  
14 than 2 years or more than life and may be fined not more  
15 than \$50,000, or both, except as provided in 46-18-222.

16 (5)(6) Practitioners and agents under their  
17 supervision acting in the course of a professional practice,  
18 as defined by 50-32-101, are exempt from this section."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

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2 INTRODUCED BY B. BROWN, GAGE, LYNCH,

3 HOFMAN, HAFPEY, WEEDING

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4 (b) If convicted pursuant to subsection (3), for a  
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6 SCHEDULE I OR SCHEDULE II PURSUANT TO 50-32-222 OR 50-32-224  
7 AND IF PREVIOUSLY CONVICTED OF SUCH A SALE, the person shall  
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 11 ~~this subsection is for criminal sale of such a drug to a~~  
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 23 ~~place on or within 1,000 feet of the real property~~  
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1        (a) If convicted pursuant to subsection (2), the  
 2        person shall be imprisoned in the state prison for not less  
 3        than 4 years or more than life and may be fined not more  
 4        than \$50,000, or both, except as provided in 46-18-222;

5        (b) If convicted pursuant to ~~subsection (3)~~, for a  
 6        second offense OF THE SALE OF A DANGEROUS DRUG INCLUDED IN  
 7        SCHEDULE I OR SCHEDULE II PURSUANT TO 50-32-222 OR 50-32-224  
 8        AND IF PREVIOUSLY CONVICTED OF SUCH A SALE, the person shall  
 9        be imprisoned in the state prison for not less than 20 years  
 10       or more than life and may be fined not more than \$50,000, or  
 11       both, except as provided in 46-18-222;

12       (c) If convicted pursuant to ~~subsection (3)~~ for a  
 13       third or subsequent offense OF THE SALE OF A DANGEROUS DRUG  
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-End-

# STANDING COMMITTEE REPORT

## HOUSE

MARCH 18,

87

19

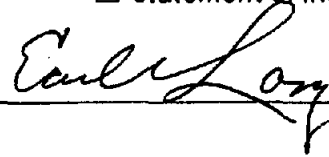
Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 261

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

  
Chairman

1. Title, line 6.

Strike: "A PERSON 21 YEARS OF AGE OR OLDER"

Insert: "AN ADULT"

2. Title, lines 7 and 8.

Strike: "ON OR WITHIN PROXIMITY TO THE REAL PROPERTY COMPRISING  
A SCHOOL"

3. Page 2, lines 10 through 14.

Strike: "Whenever" on line 10 through end of line 14

4. Page 2, line 16.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Strike: "or"

Insert: ","

Following: "(3)"

Insert: "," or (5)"

5. Page 2, line 20.

Strike: "21 YEARS OF AGE OR OLDER"

Insert: "who was an adult"

6. Page 2, line 21.

Following: "SALE"

Insert: "and"

7. Page 2, lines 22 through 24.

Strike: "," which" on line 22 through "school," on line 24

8. Page 3, line 3, end of line 9 and beginning of line 10,  
and lines 17 and 22.

Strike: "or both,"

ASB261a/JM/JM2

THIRD

BLUE

REP. BROWN WILL CARRY THE BILL!

reading copy ( )