

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**
4 **By: Senators Everett and Bell**

A Bill

Call Item 9

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-64-401 TO PROVIDE THAT
9 MANUFACTURE OR DELIVERY OF SCHEDULE VI CONTROLLED
10 SUBSTANCES SHALL BE A CLASS A, B, OR C FELONY DEPENDING
11 UPON QUANTITY; TO DECLARE AN EMERGENCY; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "TO PROVIDE THAT MANUFACTURE OR DELIVERY
16 OF SCHEDULE VI CONTROLLED SUBSTANCES
17 SHALL BE A CLASS A, B, OR C FELONY
18 DEPENDING UPON QUANTITY."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Subsection (a) of Arkansas Code 5-64-401 is amended to read
23 as follows:

24 "(a) Except as authorized by subchapters 1-6 of this chapter, it is
25 unlawful for any person to manufacture, deliver, or possess with intent to
26 manufacture or deliver a controlled substance.

27 (1) Any person who violates this subsection with respect to:

28 (i) A controlled substance classified in Schedules I or II,
29 which is a narcotic drug or methamphetamine, and by aggregate weight,
30 including adulterants or diluents, is less than twenty-eight grams (28 g.), is
31 guilty of a felony and shall be imprisoned for not less than ten (10) years
32 nor more than forty (40) years, or life, and shall be fined an amount not
33 exceeding twenty-five thousand dollars (\$25,000). For all purposes other than
34 disposition, this offense is a Class Y felony.

35 A controlled substance classified in Schedules I or II, which is a

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1 narcotic drug or methamphetamine, and by aggregate weight, including
2 adulterants or diluents, is twenty-eight grams (28 g.) or more but less than
3 two hundred grams (200 g.), is guilty of a felony and shall be imprisoned for
4 not less than fifteen (15) years nor more than forty (40) years, or life, and
5 shall be fined an amount not exceeding fifty thousand dollars (\$50,000). For
6 all purposes other than disposition, this offense is a Class Y felony.

7 A controlled substance classified in Schedules I or II, which is a
8 narcotic drug or methamphetamine, and by aggregate weight, including
9 adulterants or diluents, is two hundred grams (200 g.) or more but less than
10 four hundred grams (400 g.), is guilty of a felony and shall be imprisoned for
11 not less than twenty (20) years nor more than forty (40) years, or life, and
12 shall be fined an amount not exceeding one hundred thousand dollars
13 (\$100,000). For all purposes other than disposition, this offense is a Class Y
14 felony.

15 A controlled substance classified in Schedules I or II, which is a
16 narcotic drug or methamphetamine, and by aggregate weight, including
17 adulterants or diluents, is four hundred grams (400 g.) or more, is guilty of
18 a felony and shall be imprisoned for not less than forty (40) years, or life,
19 and shall be fined an amount not exceeding two hundred and fifty thousand
20 dollars (\$250,000). For all purposes other than disposition, this offense is a
21 Class Y felony.

22 (ii) Any other controlled substance classified in Schedules I,
23 II, or III which by aggregate weight, including adulterants or diluents, is
24 less than twenty-eight grams (28 g.), is guilty of a felony and shall be
25 imprisoned for not less than five (5) years nor more than twenty (20) years
26 and shall be fined an amount not to exceed fifteen thousand dollars (\$15,000).
27 For all purposes, other than disposition, this offense is a Class B felony.

28 Any other controlled substance classified in Schedules I, II, or III
29 which by aggregate weight, including adulterants or diluents, is twenty-eight
30 grams (28 g.) or more but less than four hundred grams (400 g.), is guilty of
31 a felony and shall be imprisoned for not less than ten (10) years nor more
32 than forty (40) years, or life, and shall be fined an amount not to exceed
33 fifty thousand dollars (\$50,000). For all purposes other than disposition,
34 this offense is a Class B felony.

35 Any other controlled substance classified in Schedules I, II, or III

1 which by aggregate weight, including adulterants or diluents, is four hundred
2 grams (400 g.) or more, is guilty of a felony and shall be imprisoned for not
3 less than fifteen (15) years nor more than forty (40) years, or life, and
4 shall be fined an amount not exceeding one hundred thousand dollars
5 (\$100,000). For all purposes other than disposition, this offense is a Class B
6 felony.

7 (iii) A substance classified in Schedules IV or V which by
8 aggregate weight, including adulterants or diluents, is less than two hundred
9 grams (200 g.), is guilty of a felony and shall be imprisoned for not less
10 than three (3) years nor more than ten (10) years and shall be fined an amount
11 not exceeding ten thousand dollars (\$10,000). For all purposes other than
12 disposition, this offense is a Class C felony.

13 A substance classified in Schedules IV or V which by aggregate weight,
14 including adulterants or diluents, is two hundred grams (200 g.) or more but
15 less than four hundred grams (400 g.), is guilty of a felony and shall be
16 imprisoned for not less than ten (10) years nor more than forty (40) years, or
17 life, and shall be fined an amount not exceeding fifty thousand dollars
18 (\$50,000). For all purposes other than disposition, this offense is a Class C
19 felony.

20 A substance classified in Schedules IV or V which by aggregate weight,
21 including adulterants or diluents, is four hundred grams (400 g.) or more, is
22 guilty of a felony and shall be imprisoned for not less than fifteen (15)
23 years nor more than forty (40) years, or life, and shall be fined an amount
24 not exceeding one hundred thousand dollars (\$100,000). For all purposes other
25 than disposition, this offense is a Class C felony.

26 (iv) A controlled substance classified in Schedule VI shall be
27 guilty of a felony and be: (a) Imprisoned no less than four (4) nor more than
28 ten (10) years and/or fined no more than twenty-five thousand dollars
29 (\$25,000) if the quantity of the substance is less than ten pounds (10 lbs.)
30 and for all purposes other than disposition, this offense is a Class C felony;
31 or (b) Imprisoned for no less than five (5) years nor more than twenty (20)
32 years and/or fined no less than fifteen thousand dollars (\$15,000) nor more
33 than fifty thousand dollars (\$50,000) if the quantity of such substance is ten
34 pounds (10 lbs.) or more but less than one hundred pounds (100 lbs.) and for
35 all purposes other than disposition, this offense is a Class B felony; or (c)

1 Imprisoned for no less than six (6) years nor more than thirty (30) years
2 and/or fined no less than fifteen thousand dollars (\$15,000) nor more than one
3 hundred thousand dollars (\$100,000) if the quantity of the substance is one
4 hundred pounds (100 lbs.) or more and for all purposes other than disposition,
5 this offense is a Class A felony."

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7 SECTION 2. All provisions of this act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 3. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 4. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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20 SECTION 5. EMERGENCY. It is hereby found and determined by the
21 Seventy-Ninth General Assembly of the State of Arkansas, meeting in the Second
22 Extraordinary Session of 1994, that the felony classifications for
23 distribution or manufacture of Schedule VI controlled substances are not
24 sufficiently different for large and small amounts of the controlled
25 substance. It is necessary that the consequences for inchoate offenses
26 related to manufacturing or selling larger amounts of Schedule VI controlled
27 substances be immediately increased. Therefore, an emergency is hereby
28 declared to exist, and this act being immediately necessary for the
29 preservation of the public peace, health, and safety shall be in full force
30 and effect from and after its passage and approval.

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