

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 2: CONTRABAND OFFENSES

§ 2141. Trafficking Offenses; Penalties.

(a) It shall be unlawful for any person knowingly or intentionally:

(1) To manufacture, deliver or possess with intent to manufacture, deliver or dispense, a controlled substance; or

(2) To create, distribute, or possess with intent to deliver, a counterfeit controlled substance.

(b) Any person who violates subsection (a) of this section with respect to:

(1) A substance classified in Schedules I or II which is a narcotic drug or methamphetaminehydrochloride shall be sentenced for a first offense to a term of imprisonment for not less than 25 years, a fine of not more than \$10,000, or both and the term of imprisonment shall not be subject to suspension, probation or parole and shall be sentenced, upon a second offense, to a term of life imprisonment, a fine of not more than \$20,000, or both, and such term shall not be subject to suspension, probation, or parole.

(2) Any other controlled substance classified in Schedules I, II or III may be sentenced to a term of imprisonment of not more than five years, a fine of not more than \$2,000, or both.

(3) A substance classified in Schedule IV may be sentenced to a term of imprisonment for not more than five years, a fine of not more than \$1,000, or both.

(c) Notwithstanding subsection (b)(2) of this section, any person who violates subsection (a)(1) of this section by distributing not more than an ounce of marijuana for no remuneration shall be treated as provided in 6 CMC § 2142(c)(1).

(d) It shall be unlawful for any person to sell, distribute, manufacture, or possess with the intent to sell, distribute, or manufacture any narcotic drug or other controlled substance, including any form of methamphetaminehydrochloride, or its paraphernalia, within 1000 feet of the real property comprising a public or private elementary or secondary school. Any person found guilty of such offense shall be sentenced to a term of imprisonment of not less than three years, not subject to suspension, probation, or parole.

(e) It shall be unlawful for any person to sell, distribute, or deliver, or to cause any other person to sell, distribute, or deliver any narcotic drug or controlled substance, including any form of methamphetaminehydrochloride, or its paraphernalia, to any person under the age of 18 years. Any person found guilty of such offense shall be sentenced to a term of imprisonment of not less than five years, not subject to suspension, probation, or parole.

Source: PL 3-72, § 2 (§ 1101); amended by PL 7-42, § 4; PL 8-1, § 2; PL 11-24, § 2.

Commission Comment: PL 7-42, the "Anti-Drug Abuse Act of 1991," took effect October 31, 1991. According to PL 7-42, §§ 2 and 3:

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Section 2. Purpose. The purpose of this Act is to enact measures that will assist in the prevention of the importation of controlled substances into the Commonwealth; to impose more severe penalties for the importation, trafficking, distribution, delivery, and possession of drugs classified in Schedules I and II of controlled substances as defined in 6 CMC Division; to enhance the detection of illicit money laundering activities by amending the authority of the Customs Service to include the conducting of outbound searches and requiring the declaration \$10,000 or more in currency for passengers departing the Commonwealth; to prevent the flow of controlled substances between islands by amending the authority of the Customs Service to include inter-island searches; to require government planning for a drug rehabilitation and treatment program; and for other purposes.

Section 3. Findings. The Legislature finds that drug abuse is an exceptionally dangerous threat to the safety and welfare of the Commonwealth, especially meth-amphetaminehydrochloride at the present time and potentially other drugs such as heroin and cocaine. The Legislature further finds that stronger legislation is needed to prevent the importation of controlled substances into the Commonwealth and drug trafficking within the Commonwealth. In addition, greater penalties for the possession of controlled substances are needed, especially for subsequent offenses.

The Legislature finds that [the] Customs Service is restrained from greater effectiveness in intercepting the importation of controlled substances into the Commonwealth through existing statutes, which as amended by this Act would enhance their enforcement capability. Additionally, the potential for harm and violence to Commonwealth law enforcement officers, including those working in the Customs Service, is increasingly high due to the large profits and criminal elements associated with the distribution of controlled substances.

The Legislature finds that the trafficking of controlled substances typically involves large sums of currency which may be carried out of the Commonwealth. Therefore, the capability of the Customs Service to intercept the importation of controlled substances would be enhanced by requiring departing passengers with \$10,000 or more of currency to declare the same.

The Legislature further finds that those drugs classified in Schedules I and II are highly addictive whose users require rehabilitation and treatment to end addiction. However, the Commonwealth at the present time does not have a treatment program. The Legislature finds a need for the Department of Public Health & Environmental Services to plan, coordinate, develop and implement a drug treatment and rehabilitation program.

PL 11-24 which amended subsection (b)(1) of this section took effect July 17, 1998. According to PL 11-24, § 1:

Section 1. Findings. The Legislature finds the use of dangerous, highly addicting narcotic substances has become epidemic in the Commonwealth. The Legislature further finds that among the leading facilitators of the drug trade in the CNMI are couriers who smuggle the contraband

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into the Commonwealth. CNMI law has already established that possession of five grams or more of certain controlled substances is a rebuttable presumption of the crime of trafficking. In the Legislature's opinion it has become necessary to impose severe penalties on those who, without conscience, would so prey on our society as to threaten its very survival.