

#1

89 LSO-0253

# HOUSE BILL

2381

**Title:**

HB0381FT01

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AN ACT to create W.S. 35-7-1041; and to amend W.S. 6-2-101(a), 35-7-1031(a) introductory paragraph, 35-7-1036 and 35-7-1038(b) relating to controlled substances; adding delivery of controlled substances to the felony murder statute; providing for a mandatory life sentence for delivery of certain controlled substances; providing for a death penalty or life imprisonment if a death occurs during delivery of certain controlled substances; and providing for an effective date.

**HOUSE BILL 0581**

**Introduced by:**

Langley W. Grantham James C. Hogenson

[illegible]

**CONTINUED ON BACK**

House of Intro				Second House			
_____	To Com. No.	_____		_____	To Com No.	_____	
_____	Stand Report	Do _____	Amd _____	Not _____	_____	Stand Report	Do _____
_____	Com Whole	Do _____	Amd _____	Not _____	_____	Com Whole	Do _____
_____	2nd Reading	Amd _____			_____	2nd Reading	Amd _____
_____	3rd Reading	Amd _____	Pass _____	Fail _____	_____	3rd Reading	Amd _____
							Pass _____
							Fail _____

## INTRODUCED

1989

STATE OF WYOMING

89LSO-0753.01

HOUSE BILL NO. 0381

Drug sale penalties.

Sponsored by: Representative(s) CHAMBERLAIN and HAGEMAN

### A BILL

for

1 AN ACT to create W.S. 35-7-1041; and to amend W.S.  
2 6-2-101(a), 35-7-1031(a) introductory paragraph,  
3 35-7-1036 and 35-7-1038(b) relating to controlled sub-  
4 stances; adding delivery of controlled substances to the  
5 felony murder statute; providing for a mandatory life sen-  
6 tence for delivery of certain controlled substances; pro-  
7 viding for a death penalty or life imprisonment if a death  
8 occurs during delivery of certain controlled substances;  
9 and providing for an effective date.

10 Be It Enacted by the Legislature of the State of Wyoming:

1           Section 1. W.S. 37-7-1041 is created to read:

2           35-7-1041. Drug offenses; enhanced penalties.

3           (a) Notwithstanding W.S. 35-7-1031 or 35-7-1036, any  
4       person who delivers or possesses with intent to deliver  
5       any of the following shall be guilty of a felony and upon  
6       conviction shall be sentenced a mandatory term of life  
7       imprisonment:

8                       (i) Five (5) or more pounds of marihuana;

9                       (ii) One (1) or more ounces of cocaine;

10                      (iii) Twenty (20) or more dose units of the  
11       controlled substances listed in W.S. 35-7-1014(d) other  
12       than marihuana;

13                      (iv) One hundred (100) or more dose units of  
14       the controlled substances listed in W.S. 35-7-1016(d)(i);  
15       or

16                      (v) One (1) or more pounds of any other con-  
17       trolled substance listed in W.S. 35-7-1014(d) or  
18       35-7-1016(d).

19           (b) For purposes of this section any person con-  
20       victed of a second or subsequent offense under this act

1 shall be sentenced as though the second crime involved a  
2 quantity of drugs equal to that involved in the earlier  
3 offenses plus the quantity involved in the offense for  
4 which he is being sentenced.

5 (c) If any human being is killed during the perpe-  
6 tration of, or in the attempt to perpetrate any crime  
7 listed in subsection (a) of this section, the person per-  
8 petrating or attempting to perpetrate the crime is guilty  
9 of murder in the first degree and shall be punished by  
10 death or life imprisonment according to law.

11 Section 2. W.S. 6-2-101(a), 35-7-1031(a) introduc-  
12 tory paragraph, 35-7-1036 and 35-7-1038(b) are amended to  
13 read:

14 6-2-101. Murder in the first degree; penalty.

15 (a) Whoever purposely and with premeditated malice,  
16 or in the perpetration of, or attempt to perpetrate, any  
17 sexual assault, arson, robbery, burglary, escape, resist-  
18 ing arrest or kidnapping, or by administering poison or  
19 causing the same to be done, kills any human being is  
20 guilty of murder in the first degree. ANY PERSON WHO  
21 UNLAWFULLY DELIVERS ANY CONTROLLED SUBSTANCE IN VIOLATION  
22 OF W.S. 35-7-1031 IS GUILTY OF MURDER IN THE FIRST DEGREE,

1 IF THE CONTROLLED SUBSTANCE IS PROVEN TO BE THE PROXIMATE  
2 CAUSE OF THE DEATH OF THE USER.

3 35-7-1031. Unlawful manufacture or delivery; coun-  
4 terfeit substance; unlawful possession.

5 (a) Except as authorized by this act, it is unlawful  
6 for any person to manufacture, deliver, or possess with  
7 intent to manufacture or deliver, a controlled substance.  
8 EXCEPT AS PROVIDED IN W.S. 35-7-1041 any person who vio-  
9 lates this subsection with respect to:

10 35-7-1036. Distribution to person under 18. Any per-  
11 son eighteen (18) years of age or over who violates W.S.  
12 35-7-1031(a) by distributing a controlled substance listed  
13 in Schedules I or II which is a narcotic drug to a person  
14 under eighteen (18) years of age who is at least three (3)  
15 years his junior is punishable by the fine authorized by  
16 W.S. 35-7-1031(a)(i), by a term of imprisonment of up to  
17 twice that authorized by W.S. 35-7-1031(a)(i), or both.  
18 Any person eighteen (18) years of age or over who violates  
19 W.S. 35-7-1031(a) by distributing any other controlled  
20 substance listed in Schedules I, II, III, to a person  
21 under eighteen (18) years of age who is at least three (3)  
22 years his junior is punishable by the fine authorized by  
23 W.S. 35-7-1031(a)(ii), by a term of imprisonment up to

1 twice that authorized by W.S. 35-7-1031(a)(ii), or both.  
2 Any person eighteen (18) years of age or over who violates  
3 W.S. 35-7-1031(a) by distributing any controlled substance  
4 listed in Schedule IV to a person under eighteen (18)  
5 years of age who is at least three (3) years his junior is  
6 punishable by the fine authorized by W.S.  
7 35-7-1031(a)(iii), by a term of imprisonment up to twice  
8 that authorized by W.S. 35-7-1031(a)(iii), or both. Any  
9 person eighteen (18) years of age or over who violates  
10 W.S. 35-7-1031(a) by distributing any controlled substance  
11 listed in Schedule V to a person under eighteen (18) years  
12 of age who is at least three (3) years his junior is pun-  
13 ishable by the fine authorized by W.S. 35-7-1031(a)(iv),  
14 by a term of imprisonment up to twice that authorized by  
15 W.S. 35-7-1031(a)(iv), or both. THIS SECTION SHALL NOT  
16 APPLY TO ANY OFFENSE PUNISHABLE UNDER W.S. 35-7-1041.

17 35-7-1038. Second or subsequent offenses.

18 (b) For purposes of this ~~section~~ ACT, an offense is  
19 a second or subsequent offense, if, prior to his convic-  
20 tion of the offense, the offender has at any time been  
21 convicted under this act or under any statute of the  
22 United States or of any state relating to narcotic drugs,  
23 marihuana, depressant, stimulant, or hallucinogenic drugs.

1           Section 3. This act is effective June 8, 1989.

2 (END)

Drug sale penalties.

89LSO-0753.L2

FISCAL NOTE

<u>Anticipated REVENUE to:</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED REVENUE	_____	_____	_____
=====			
<u>Anticipated COST to:</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED COST	_____	_____	_____
=====			

Impact depends on number of persons convicted under provisions of the bill.

HB 381