

Chamberlain

9450 0409

HOUSE BILL 0162

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Title:

HB0162

AN ACT to amend W.S. 35-7-1031(c) and by creating new subsections (d) through (f), 35-7-1037, 35-7-1038(c) and 35-7-1040 relating to drug offenses; increasing the penalties for possession of controlled substances as specified; specifying when a defendant may be granted deferred prosecution; and providing for an effective date.

Introduced by:

W. Chamberlain *J. D. [Signature]*

HOUSE ACTION ON HOUSE BILL

- 2/24 Introduced
Aye ___ No ___ Ex ___ Ab ___
- Read First Time and Ref. to Committee No. ___
- Failed Introduction
Aye 12 No 2 Ex ___ Ab ___
- Returned from Committee No. ___ with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass; W/O Recomm; Re-Refer to Committee No. ___
- Re-referred to Committee No. ___
- Returned from Committee No. ___ with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass; W/O Recomm; Re-Refer to Committee No. ___
- Considered in Comm. of Whole
 Amended
 Recommended Do Pass
 Failed Comm. of Whole
 Indefinitely Postponed
 Other: _____
- Read Second Time
 Amended
 Do Pass
 Do Not Pass
 Accelerated to 3rd Rdg.
- Read Third Time
 Amended
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
 Held for Reconsideration
 Motion to Reconsider
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
 Third Reading Vote (On Reconsideration)
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
- Sent to Senate (No Amendments)
- Sent to LSO for Engrossing
ENGROSSED
Sent to Senate

SENATE ACTION ON HOUSE BILL

- Received. Read First Time.
Referred to Committee No. ___
- Returned from Committee No. ___ with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass; W/O Recomm; Re-Refer to Committee No. ___
- Re-referred to Committee No. ___
- Returned from Committee No. ___ with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass; W/O Recomm; Re-Refer to Committee No. ___
- Considered in Comm. of Whole
 Amended
 Recommended Do Pass
 Failed Comm. of Whole
 Indefinitely Postponed
 Other: _____
- Read Second Time
 Amended
 Do Pass
 Do Not Pass
 Accelerated to 3rd Rdg.
- Read Third Time
 Amended
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
 Held for Reconsideration
 Motion to Reconsider
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
 Third Reading Vote (On Reconsideration)
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
- Sent to House
- Sent for Enrolling
HEA No. ___
- Signed by Speaker
- Signed by President
- Approved by Governor
- Chapter No. ___

HOUSE ROLL CALL - FIFTY-SECOND WYOMING LEGISLATURE

Date 3/24/1949 Bill # 162 Intro 3rd Rdg _____ Concur _____ Rules/Susp _____

Other Action: _____ JCC# _____

Moved by: _____ Seconded by: _____

Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent	
✓				ANDERSON, R.	✓				NELSON
✓				BADGETT		✓			PARK
✓				BAKER		✓			PASENEAUX
	✓			BARKER	✓				PERKINS
✓				BATY	✓				PHILP
	✓			BEBOUT		✓			REED
	✓			BENSEL		✓			RYCKMAN
✓				BETTS		✓			SADLER
	✓			BLACKWELL	✓				SARCLETTI
	✓			BOSWELL	✓				SESSIONS
	✓			BOWRON	✓				SHIPPY
	✓			CASE	✓				SHREVE
✓				CHAMBERLAIN		✓			SIMONS
	✓			DEVIN		✓			STAFFORD
	✓			DEWITT	✓				STARK
	✓			DIERCKS		✓			SULLIVAN
✓				ERB		✓			TEMPEST
✓				GAMS	✓				TIPTON
✓				HAGEMAN	✓				TOMASSI
✓				HANES		✓			VASEY
	✓			HANSEN	✓				WALLIS
✓				HARRISON	✓				WILLFORD
✓				HINCHEY	✓				WOLFLEY
	✓			HINES	✓				WOOLDRIDGE
✓				JOHNSON	✓				WRIGHT
✓				LAW	✓				WYATT
				MACMILLAN		✓			MR. SPEAKER <i>J.W. Tom</i>
✓				MARTON					
	✓			MCGRAW					
	✓			MCGREW					
	✓			MOCKLER					
✓				MOORE					
	✓			MORROW					
✓				NAGEL					

AYES 32
 NOES 28
 EXCUSED _____
 ABSENT _____
 TOTAL 60
 LESS 28
32

PRESENT _____

Passed _____
 Failed

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

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

1994

STATE OF WYOMING

94LSO-0409.01

HOUSE BILL NO. 0162

Possession of controlled substances.

Sponsored by: Representative(s) CHAMBERLAIN and Senator(s) DIXON

A BILL

for

1 AN ACT to amend W.S. 35-7-1031(c) and by creating new sub-
 2 sections (d) through (f), 35-7-1037, 35-7-1038(c) and
 3 35-7-1040 relating to drug offenses; increasing the penal-
 4 ties for possession of controlled substances as specified;
 5 specifying when a defendant may be granted deferred prose-
 6 cution; and providing for an effective date.

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

8 Section 1. W.S. 35-7-1031(c) and by creating new sub-
 9 sections (d) through (f), 35-7-1037, 35-7-1038(c) and
 10 35-7-1040 are amended to read:

11 35-7-1031. Unlawful manufacture or delivery; counter-

**NO SIGNIFICANT FISCAL OR
 PERSONNEL IMPACT AT STATE LEVEL** 162

1 feit substance; unlawful possession.

2 (c) It is unlawful for any person TO knowingly or
3 intentionally-to-possess BE IN ACTUAL OR CONSTRUCTIVE POS-
4 SESSION OF a controlled substance unless the substance was
5 obtained directly from, or pursuant to a valid prescrip-
6 tion or order of a practitioner while acting in the course
7 of his professional practice, or except as otherwise
8 authorized by this act. EXCEPT UNDER CIRCUMSTANCES CONSTI-
9 TUTING A VIOLATION OF SUBSECTION (d) OF THIS SECTION, any
10 person who violates this subsection is guilty of:

11 (i) A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
12 MORE THAN FIVE (5) YEARS, A FINE OF NOT MORE THAN FIVE
13 THOUSAND DOLLARS (\$5,000.00), OR BOTH, FOR ANY SUBSTANCE,
14 OTHER THAN MARIJUANA, CLASSIFIED IN SCHEDULE I OR SCHEDULE
15 II;

16 (ii) A misdemeanor punishable by imprisonment
17 for not more than six (6) months, a fine of not more than
18 seven hundred fifty dollars (\$750.00), or both, FOR MARI-
19 JUANA OR ANY CONTROLLED SUBSTANCE CLASSIFIED IN SCHEDULE
20 III, IV OR V. Any person convicted for a third or subse-
21 quent offense under this subsection PARAGRAPH shall be
22 imprisoned in the state penitentiary for not more than

1 five (5) years, fined not more than five thousand dollars
2 (\$5,000.00), or both.

3 (d) NOTWITHSTANDING ANY OTHER PROVISION OF SUBSEC-
4 TIONS (a) THROUGH (c) OF THIS SECTION, ANY PERSON WHO
5 KNOWINGLY BRINGS INTO THIS STATE OR WHO IS KNOWINGLY IN
6 ACTUAL OR CONSTRUCTIVE POSSESSION OF A CONTROLLED SUB-
7 STANCE IN THE AMOUNT SPECIFIED IN THIS SUBSECTION IS
8 GUILTY OF A CRIME AND UPON CONVICTION SHALL BE SUBJECT TO
9 THE SAME PENALTY PROVIDED UNDER SUBSECTION (a) OF THIS
10 SECTION FOR A PERSON CONVICTED OF DELIVERY OF THE SPECI-
11 FIED CONTROLLED SUBSTANCE:

12 (i) FOR MARIJUANA, EIGHT (8) OUNCES OR MORE OR
13 TEN (10) OR MORE PLANTS;

14 (ii) FOR:

15 (A) HALLUCINOGENIC SUBSTANCES UNDER W.S.
16 35-7-1014(d), TWENTY (20) OR MORE DOSE UNITS;

17 (B) AMPHETAMINES OR OTHER STIMULANTS AS
18 CLASSIFIED BY W.S. 35-7-1016(d)(i), ONE HUNDRED (100) OR
19 MORE DOSE UNITS.

20 (iii) FOR ANY CONTROLLED SUBSTANCE CLASSIFIED IN
21 SCHEDULE I OR II OTHER THAN THOSE SPECIFIED IN PARAGRAPH

1 (i) OR (ii) OF THIS SUBSECTION, ONE (1) OUNCE OR MORE OF A
2 MIXTURE OR SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF THE
3 CONTROLLED SUBSTANCE.

4 (e) AS USED IN SUBSECTION (d) OF THIS SECTION "DOSE
5 UNIT" MEANS A PILL, TABLET, CAPSULE OR OTHER SINGLE UNIT
6 OF USER PACKAGING.

7 (f) THE WEIGHT, NUMBER OF PLANTS AND DOSE UNITS POS-
8 SSESSED BY A PERSON DURING ANY THIRTY (30) DAY PERIOD MAY
9 BE AGGREGATED FOR THE PURPOSE OF A CHARGE UNDER SUBSECTION
10 (d) OF THIS SECTION.

11 35-7-1037. Probation and discharge of first offend-
12 ers. Whenever any person who has not previously been con-
13 victed of any offense under this act or under any statute
14 of the United States or of any state relating to narcotic
15 drugs, marijuana, or stimulant, depressant, or hallucino-
16 genic drugs, pleads guilty to or is found guilty of pos-
17 session of a controlled substance under W.S. 35-7-1031(e)
18 35-7-1031(c)(ii), the court, without entering a judgment
19 of guilt and with the consent of the accused AND THE
20 STATE, may defer further proceedings and place him on pro-
21 bation upon terms and conditions. Upon violation of a term
22 or condition, the court may enter an adjudication of guilt

1 and proceed as otherwise provided. Upon fulfillment of the
2 terms and conditions, the court shall discharge the person
3 and dismiss the proceedings against him. Discharge and
4 dismissal under this section shall be without adjudication
5 of guilt and is not a conviction for purposes of this sec-
6 tion or for purposes of disqualifications or disabilities
7 imposed by law upon conviction of a crime, including the
8 additional penalties imposed for second or subsequent con-
9 victions under W.S. 35-7-1038. There may be only one (1)
10 discharge and dismissal under this section with respect to
11 any person. This section shall not be construed to provide
12 an exclusive procedure. Any other procedure provided by
13 law relating to suspension of trial or probation, may be
14 followed, in the discretion of the trial court.

15 35-7-1038. Second or subsequent offenses.

16 (c) This section shall not apply to offenses under
17 W.S. 35-7-1031(e) 35-7-1031(c)(ii).

18 35-7-1040. Planting, cultivating or processing mari-
19 juana, peyote or opium poppy. EXCEPT UNDER CIRCUMSTANCES
20 CONSTITUTING A VIOLATION OF W.S. 35-7-103(d), any person
21 who knowingly or intentionally plants, cultivates, har-
22 vests, dries, or processes any marijuana, peyote, or opium

1 poppy except as otherwise provided by law shall be guilty
2 of a misdemeanor and shall be punished by imprisonment not
3 to exceed six (6) months in the county jail or by a fine
4 not to exceed one thousand dollars (\$1,000.00), or both.

5 Section 2. This act is effective July 1, 1994.

6 (END)