

2009 -- S 0039 AS AMENDED

LC00298

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Senators Metts, Pichardo, Jabour, C Levesque, and Perry

Date Introduced: January 14, 2009

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-28-4.01.1 and 21-28-4.01.2 of the General Laws in Chapter 21-
2 28 entitled "Uniform Controlled Substances Act" are hereby amended to read as follows:

3 **21-28-4.01.1. Minimum sentence -- Certain quantities of controlled substances. --** (a)

4 Except as authorized by this chapter, it shall be unlawful for any person to manufacture, sell, or
5 possess with intent to manufacture, or sell, a controlled substance classified in schedules I or II
6 (excluding marijuana) or to possess or deliver the following enumerated quantities of certain
7 controlled substances:

8 (1) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
9 detectable amount of heroin;

10 (2) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
11 detectable amount of:

12 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
13 ecgonine, and derivatives of ecgonine or their salts have been removed;

14 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

15 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

16 (iv) Any compound, mixture, or preparation which contains any quantity of any of the
17 substances referred to in paragraphs (i) -- (iii) of this subdivision;

18 (3) One gram (1 g.) to ten grams (10 gs.) of phencyclidine (PCP) or one hundred (100) to
19 one thousand (1,000) tablets of a mixture or substance containing a detectable amount of

1 phencyclidine (PCP);

2 (4) One-tenth of a gram (0.1 g.) to one gram (1 g.) of lysergic acid diethylamide (LSD)
3 or one hundred (100) to one thousand (1,000) tablets of a mixture or substance containing a
4 detectable amount of lysergic acid diethylamide (LSD); or

5 (5) One kilogram (1 kg.) to five (5 kgs.) kilograms of a mixture containing a detectable
6 amount of marijuana.

7 (b) Any person who violates this section shall be guilty of a crime, and upon conviction,
8 ~~shall be imprisoned not less than ten (10) years and~~ may be imprisoned for a term up to fifty (50)
9 years and fined not more than five hundred thousand dollars (\$500,000). ~~nor less than ten~~
10 ~~thousand dollars (\$10,000). In all these cases, the justice imposing sentence shall impose a~~
11 ~~minimum sentence of ten (10) years imprisonment and may only impose a sentence less than that~~
12 ~~minimum if he or she finds that substantial and compelling circumstances exist which justify~~
13 ~~imposition of the alternative sentence. The finding may be based upon the character and~~
14 ~~background of the defendant, the cooperation of the defendant with law enforcement authorities,~~
15 ~~the nature and circumstances of the offense, and/or the nature and quality of the evidence~~
16 ~~presented at trial. If a sentence which is less than imprisonment for a term of ten (10) years is~~
17 ~~imposed, the trial justice shall set forth on the record the circumstances that he or she found as~~
18 ~~justification for imposition of the lesser sentence.~~

19 **21-28-4.01.2. Minimum sentence -- Certain quantities of controlled substances. --** (a)

20 Except as authorized by the chapter, it shall be unlawful for any person to possess, manufacture,
21 sell, or deliver the following enumerated quantities of certain controlled substances:

22 (1) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
23 amount of heroin;

24 (2) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
25 amount of

26 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
27 ecgonine, and derivatives of ecgonine or their salts have been removed;

28 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

29 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

30 (iv) Any compound, mixture, or preparation which contains any quantity of any of the
31 substances referred to in paragraphs (i) -- (iii) of this subdivision;

32 (3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand
33 (1,000) tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);

34 (4) More than one gram (1 g.) of lysergic acid diethylamide (LSD); or more than one

1 thousand (1,000) tablets of a mixture or substance containing a detectable amount of lysergic acid
2 diethylamide (LSD); or

3 (5) More than five kilograms (5 kgs.) of a mixture containing a detectable amount of
4 marijuana.

5 (b) Any person who violates this section shall be guilty of a crime, and upon conviction,
6 ~~shall be imprisoned not less than twenty (20) years to serve and~~ may be imprisoned for a term up
7 to life and fined not more than one million dollars (\$1,000,000). ~~nor less than twenty five~~
8 ~~thousand dollars (\$25,000). In all these cases, the justice imposing sentence shall impose a~~
9 ~~minimum sentence of twenty (20) years imprisonment and may only impose a sentence less than~~
10 ~~that minimum if he or she finds that substantial and compelling circumstances exist which justify~~
11 ~~imposition of the alternative sentence. The finding may be based upon the character and~~
12 ~~background of the defendant, the cooperation of the defendant with law enforcement authorities,~~
13 ~~the nature and circumstances of the offense, and/or the nature and quality of the evidence~~
14 ~~presented at trial. If a sentence which is less than imprisonment for a term of twenty (20) years is~~
15 ~~imposed, the trial justice shall set forth on the record the circumstances which he or she found as~~
16 ~~justification for imposition of the lesser sentence. Within twenty (20) days of the imposition of a~~
17 ~~sentence which is less than imprisonment for a term of twenty (20) years, the attorney general~~
18 ~~may appeal the sentence to the supreme court in accordance with procedures to be established by~~
19 ~~the supreme court.~~

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

1 This act would reduce the minimum sentences for crimes involving controlled
2 substances.

3 This act would take effect upon passage.

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