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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3952

02/19/2024 Authored by Gomez and Pinto
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying controlled substance laws; providing for
1.3 noncriminal referrals for certain controlled substance users; amending Minnesota
1.4 Statutes 2022, section 152.025, subdivision 4; Minnesota Statutes 2023 Supplement,
1.5 sections 152.023, subdivision 2; 152.025, subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2023 Supplement, section 152.023, subdivision 2, is amended
1.8 to read:

1.9 Subd. 2. Possession crimes. (a) A person is guilty of controlled substance crime in the
1.10 third degree if:

1.11 (1) on one or more occasions within a 90-day period the person unlawfully possesses
1.12 one or more mixtures of a total weight of ten grams or more containing a narcotic drug other
1.13 than heroin or fentanyl;

1.14 (2) on one or more occasions within a 90-day period the person unlawfully possesses
1.15 one or more mixtures of: (i) a total weight of three grams or more containing heroin; or (ii)
1.16 a total weight of five grams or more, or 25 dosage units or more, containing fentanyl;

1.17 (3) on one or more occasions within a 90-day period the person unlawfully possesses
1.18 one or more mixtures containing a narcotic drug other than heroin or fentanyl, it is packaged
1.19 in dosage units, and equals 50 or more dosage units;

1.20 (4) on one or more occasions within a 90-day period the person unlawfully possesses
1.21 any more than a residual amount of a schedule I or II narcotic drug or five or more dosage
1.22 units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or

2.1 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing zone,
2.2 or a drug treatment facility;

2.3 (5) on one or more occasions within a 90-day period the person unlawfully possesses:

2.4 (i) more than ten kilograms of cannabis flower;

2.5 (ii) more than two kilograms of cannabis concentrate; or

2.6 (iii) edible cannabis products, lower-potency hemp edibles, hemp-derived consumer
2.7 products, or any combination of those infused with more than 200 grams of
2.8 tetrahydrocannabinol; or

2.9 (6) the person unlawfully possesses one or more mixtures of more than a residual amount
2.10 containing methamphetamine or amphetamine in a school zone, a park zone, a public housing
2.11 zone, or a drug treatment facility.

2.12 (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may
2.13 not be considered in measuring the weight of a mixture except in cases where the mixture
2.14 contains four or more fluid ounces of fluid.

2.15 Sec. 2. Minnesota Statutes 2023 Supplement, section 152.025, subdivision 2, is amended
2.16 to read:

2.17 Subd. 2. **Possession and other crimes.** A person is guilty of controlled substance crime
2.18 in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

2.19 (1) the person unlawfully possesses one or more mixtures containing a controlled
2.20 substance classified in Schedule I, II, III, or IV, except cannabis flower, cannabis products,
2.21 lower-potency hemp edibles, or hemp-derived consumer products or a residual amount of
2.22 one or more mixtures of controlled substances ~~contained in drug paraphernalia~~; or

2.23 (2) the person procures, attempts to procure, possesses, or has control over a controlled
2.24 substance by any of the following means:

2.25 (i) fraud, deceit, misrepresentation, or subterfuge;

2.26 (ii) using a false name or giving false credit; or

2.27 (iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer,
2.28 wholesaler, pharmacist, physician, doctor of osteopathic medicine licensed to practice
2.29 medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of
2.30 obtaining a controlled substance.

3.1 Sec. 3. Minnesota Statutes 2022, section 152.025, subdivision 4, is amended to read:

3.2 Subd. 4. **Penalty.** (a) A person convicted under the provisions of subdivision 2, clause
3.3 (1), who has not been previously convicted of a violation of this chapter or a similar offense
3.4 in another jurisdiction, is guilty of a gross misdemeanor if: (1) the amount of the controlled
3.5 substance possessed, other than heroin, is less than 0.25 grams or one dosage unit or less if
3.6 the controlled substance was possessed in dosage units; or (2) the controlled substance
3.7 possessed is heroin and the amount possessed is less than 0.05 grams.

3.8 (b) A person convicted under the provisions of subdivision 1; subdivision 2, clause (1),
3.9 unless the conduct is described in paragraph (a); or subdivision 2, clause (2), may be
3.10 sentenced to imprisonment for not more than five years or to payment of a fine of not more
3.11 than \$10,000, or both.

3.12 (c) If a peace officer encounters a person who is suspected of violating this section, the
3.13 peace officer may refer the person to a local service provider that can offer substance use
3.14 assistance to the person. Upon request at the time of initial contact, a peace officer must, if
3.15 practicable and available, provide a person suspected of violating this section with a referral
3.16 to local service providers. For purposes of this paragraph, "local service provider" includes
3.17 but is not limited to substance use disorder treatment and recovery providers, peer support
3.18 groups and systems, homeless shelters, detoxification centers, hospital systems, mental
3.19 health crisis centers, naloxone providers, syringe service providers, and harm reduction
3.20 programs.