

Approved 6-27-90
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

4:30 ~~xxx~~/p.m. on March 22, 1990 in ~~xxxxx~~ at the rail of the Capitol.

All members were present ~~except~~:

Committee staff present:
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

The Chairman called the meeting to order by bringing SB 702, SB 704, SB 706, SB 707 and SB 710 to the committee's attention.

- SB 702 - concerning crimes and punishments; relating to fines, dispositions and forfeitures; creating the Kansas bureau of investigation special asset forfeiture fund and the Kansas highway patrol special asset forfeiture fund.
- SB 704 - concerning crime and punishment; relating to classification of penalties; sentencing.
- SB 706 - concerning the uniform controlled substances act; relating to definition of sell.
- SB 707 - concerning the uniform controlled substances act; creating a separate offense for unlawful manufacture of controlled substances.
- SB 710 - concerning crimes and punishments; relating to murder in the first degree.

Two amendments to SB 707 were suggested to make the manufacture of controlled substances a class B felony rather than a "hard 20" in the new section 1, and to address marijuana cultivation. (ATTACHMENT I) Facts about cannabis and marijuana were distributed to committee members. (ATTACHMENT II)

Senator Gaines, having voted on the prevailing side, moved to reconsider the committee's previous action of March 19 on SB 707 in recommending for passage, to bring the bill back before the committee. Senator Bond seconded the motion. The motion carried.

Senator Gaines moved to adopt the amendments as suggested. Senator Bond seconded the motion. The motion carried.

Due to the limited time remaining in the 1990 Session, HB 2770 was cited as a vehicle that could be used to marry the concepts of these Senate Bills into.

HB 2770 - concerning crimes and punishments; relating to liability for crimes of another.

Senator Bond, having voted on the prevailing side, moved to reconsider the committee's previous actions on HB 2770 to bring the bill back before the committee. Senator Gaines seconded the motion. The motion carried.

Senator Bond moved to amend HB 2770 by including the committee's amended contents of SB 702, HB 706, SB 707 and SB 710. Senator Gaines seconded the motion. The motion carried.

Senator Bond moved to recommend HB 2770 favorable for passage as amended. Senator Gaines seconded the motion. The motion carried.

Senator Morris, having voted on the prevailing side, moved to reconsider the committee's actions of March 19 in recommending SB 702, SB 704, SB 706 and SB 710 favorable for passage as they are now amended into HB 2770. Senator Martin seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
at the rail ~~room~~ Statehouse, at 4:30 ~~2:30~~ p.m. on March 22, 1990.

Senator Morris moved to recommend SB 702, SB 704, SB 706, SB 707 and SB 710 "Be Not Passed".
Senator Martin seconded the motion. The motion carried.

The meeting was adjourned.

AN ACT concerning the Uniform Controlled Substances Act creating a separate offense for unlawful manufacture of controlled substances, amending K.S.A. 1989 Supp. 65-4127a and K.S.A. 65-4127b and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person to manufacture any controlled substance. Any person violating the provisions of this section with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, upon conviction, is guilty of ~~a felony and shall be punished by imprisonment for not less than 20 years nor more than life and a fine of not more than \$300,000. Such sentence~~ **a class B felony and the sentence for which** shall not be subject to statutory provisions for suspended sentence, community work service, or probation.

New Section 2. All costs and expenses resulting from the seizure, disposition and decontamination of an unlawful manufacturing site shall be assessed as costs against the defendant.

Section 3. K.S.A. 1989 Supp. 65-4127a is hereby amended to read as follows: (a) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person to manufacture, possess, have under such person's control, possess with intent to sell, offer for sale, sell prescribe, administer, deliver, distribute, dispense or compound any opiates, opium or narcotic drugs, **or any stimulant designated in subsection (d) (1) or (d) (3) or (f) (1) of K.S.A. 65-4107 and amendments thereto.** Any person who violates this section shall be guilty of a class C felony, except that, upon conviction for the second offense, such person shall be guilty of a class B felony, and upon conviction for a third or subsequent offense, such person shall be guilty of a class A felony, and the punishment shall be life imprisonment.

(b) Upon conviction of any person pursuant to subsection (a) in which (1) the substances involved were equal to or greater than the amounts for such substances as specified in K.S.A. 1989 Supp. 65-4127e, **and amendments thereto,** or (2) the substances involved, regardless of amounts, were possessed with intent to sell, sold or offered for sale to a child under 18 years of age, there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation, assignment to a community correctional services program or suspension of sentence.

Section 4. K.S.A. 1989 Supp. 65-4127b is hereby amended to read as follows: (a) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person to possess or have under such person's control:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

*Senate Judiciary Committee
3-22-96 pm*

Attachment I page 1 of 2

03/20/90

Page 5

conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102 and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does not include its racemic and levorotatory forms.

(r) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(s) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust partnership or association or any other legal entity.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(v) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(w) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(x) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(aa) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

Section 6. K.S.A. 1989 Supp. 65-2127a, 65-2127b and 65-4101 are hereby repealed.

Section 7. This act shall take effect and be in force from and after its publication in the statute book.

(3-22-90 pm)

I 2/2



CAMP

CAMPAIGN AGAINST MARIJUANA PLANTING

P.O. Box 161089 ■ Sacramento, CA 95816 ■ Telephone: (916) 739-CAMP

FACTS ABOUT CANNABIS AND MARIJUANA

1. It takes approximately 100 cannabis seeds to weigh one gram (44,800/1 lb.)
2. One plant can produce as many as 100,000 seeds.
3. Most cannabis plants produce a taproot which rarely extends more than one foot. Lateral growth is responsible for most of the roots.
4. Cannabis seeds germinate usually in six or seven days.
5. A plant will average 3/4 of a pound of dried leaves. If picked throughout the growing season, a plant can yield three to four pounds of dried leaves.
6. A plant grown for sinsemilla will average one pound of material.
7. Most drug type cannabis matures at 20-22 weeks from date of planting. Plants should be about 10-12 feet tall at the time.
8. Cannabis is a hardy annual weed. The temperature has to fall below 25 degrees to kill it.
9. Fifty (50) to 60% of a cannabis plant is moisture.
10. One acre of ground contains approximately 5,000 plants if planted three feet apart. (The shape of the plot can increase the number of plants.)
11. One acre of ground can produce 500-600 kilos of dried plant material (clean - no stems).
12. Many indoor growers are using metal Halite lamps - 1,000 watts covers an area of 50 square feet.
13. Only about 13% of a plant's green, wet weight is dried (smokeable) leaves.
14. Depending on the process and type of material used, only 4-15% of a plant's weight, in leaves, can be converted into hashish.
15. Twenty (20) to 28% of a plant's weight in leaves can be converted into hashish oil.

*Senate Judiciary Committee
3-22-90 pm
Attachment II page 1 of 2*

16. One pound of dried cannabis, flowering top (sinsemilla) or "shake" (leaf material) will yield 908, one-half gram marijuana cigarettes.
17. The average period of intoxication following the use of one marijuana cigarette is approximately two hours. However, the residual chemicals remain in the body for a much longer period.
18. Smaller gardens of 10/20/30 plants are often claimed to be for personal use and not commercial cultivation. This is contrary to fact as shown below.

Using the conservative formula of one plant equals one pound of useable material, calculations for court testimony should be as follows:

Example: 10-plant garden = 10 pounds of useable material or 4,540 grams or 9,080 marijuana cigarettes! Again using the average intoxication period of two hours per cigarette, a 10-plant garden would provide 18,160 hours of intoxication.

There are 8,760 hours in one year. Therefore, if one individual grew 10 plants for personal use, processed the marijuana, and began smoking the material at a rate of one (joint) cigarette every two hours, 24 hours a day, 365 days year 'round, he would finish his "personal use" in 756 days or 2.1 years. Twenty (20) plants would be consumed in 4.2 years, 30 plants in 6.3 years and so forth.

Now considering the fact that dried and processed marijuana loses approximately 3-6% of Delta 9 THS every year and is practically nil after the second year no matter how it is preserved or stored, the 10-plant garden for personal use immediately becomes a "myth" as there is no way humanly possible to consume that amount before the product is rendered useless.

10/29/87

Compiled by DEA Special Agent Charles A. Stowell, California State Marijuana Coordinator and Deputy Incident Commander of CAMP.

(3-22-90 pm)
II 2/2