

Act 82 of the Third Special Session of 1989.

Act 82

HB1053

By: Representatives Ramsey, Hutchinson, Fuller, Newman,  
Glover, Forgey and Arrington

For An Act To Be Entitled  
"AN ACT TO AMEND THE UNIFORM CONTROLLED SUBSTANCES ACT TO  
INCREASE THE PENALTIES FOR THE UNLAWFUL MANUFACTURE,  
DELIVERY OR POSSESSION OF METHAMPHETAMINE; AND FOR OTHER  
PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 5-64-401(a) is hereby amended to read as follows:

"(a) Except as authorized by subchapters 1-6 of this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

(1) Any person who violates this subsection with respect to:

(i) A controlled substance classified in Schedules I or II, which is a narcotic drug or methamphetamine, and by aggregate weight, including adulterants or diluents, is less than twenty-eight (28) grams, is guilty of a felony and shall be imprisoned for not less than ten (10) years nor more than forty (40) years, or life, and shall be fined an amount not exceeding twenty-five thousand dollars (\$25,000). For all purposes other than disposition, this offense is a Class Y felony.

A controlled substance classified in Schedules I or II, which is a narcotic drug or methamphetamine, and by aggregate weight, including adulterants or diluents, is twenty-eight (28) grams or more but less than two hundred (200) grams, is guilty of a felony and shall be imprisoned for not less than fifteen (15) years nor more than forty (40) years, or life, and shall be fined an amount not exceeding fifty thousand dollars (\$50,000). For all purposes other than disposition, this offense is a Class Y felony.

A controlled substance classified in Schedules I or II, which is a narcotic drug or methamphetamine, and by aggregate weight, including adulterants or diluents, is two hundred (200) grams or more but less than four hundred (400) grams, is guilty of a felony and shall be imprisoned for not less than twenty (20) years nor more than forty (40) years, or life, and shall be fined an amount not exceeding one hundred thousand dollars (\$100,000). For all purposes other than disposition, this offense is a Class Y felony.

A controlled substance classified in Schedules I or II, which is a narcotic drug or methamphetamine, and by aggregate weight, including adulterants or diluents, is four hundred (400) grams or more, is guilty of a felony and shall be imprisoned for not less than forty (40) years, or life, and shall be fined an amount not exceeding two hundred and fifty thousand dollars (\$250,000). For all purposes other than disposition, this offense is a Class Y felony.

(ii) Any other controlled substance classified in Schedules I, II, or III and by aggregate weight, including adulterants or diluents, which is less than twenty-eight (28) grams, is guilty of a felony and shall be imprisoned for not less than five (5) years nor more than twenty (20) years and shall be fined an amount not to exceed fifteen thousand dollars (\$15,000). For all purposes, other than disposition, this offense is a Class B felony.

Any other controlled substance classified in Schedules I, II, or III and by aggregate weight, including adulterants or diluents, is twenty-eight (28)

grams or more but less than four hundred (400) grams, is guilty of a felony and shall be imprisoned for not less than ten (10) years nor more than forty (40) years, or life, and shall be fined an amount not to exceed fifty thousand dollars (\$50,000). For all purposes other than disposition, this offense is a Class B felony.

Any other controlled substance classified in Schedules I, II, or III and by aggregate weight, including adulterants or diluents, is four hundred (400) grams or more, is guilty of a felony and shall be imprisoned for not less than fifteen (15) years nor more than forty (40) years, or life, and shall be fined an amount not exceeding one hundred thousand dollars (\$100,000). For all purposes other than disposition, this offense is a Class B felony.

(iii) A substance classified in Schedules IV or V and by aggregate weight, including adulterants or diluents, is less than two hundred (200) grams, is guilty of a felony and shall be imprisoned for not less than three (3) years nor more than ten (10) years and shall be fined an amount not exceeding ten thousand dollars (\$10,000). For all purposes other than disposition, this offense is a Class C felony.

A substance classified in Schedules IV or V and by aggregate weight, including adulterants or diluents, is two hundred (200) grams or more but less than four hundred (400) grams, is guilty of a felony and shall be imprisoned for not less than ten (10) years nor more than forty (40) years, or life, and shall be fined an amount not exceeding fifty thousand dollars (\$50,000). For all purposes other than disposition, this offense is a Class C felony.

A substance classified in Schedules IV or V and by aggregate weight, including adulterants or diluents, is four hundred (400) grams or more, is guilty of a felony and shall be imprisoned for not less than fifteen (15) years nor more than forty (40) years, or life, and shall be fined an amount not exceeding one hundred thousand dollars (\$100,000). For all purposes other than disposition, this offense is a Class C felony.

(iv) A controlled substance classified in Schedule VI shall be guilty of a felony and be: (a) Imprisoned no less than four (4) nor more than ten (10) years and/or fined no more than twenty-five thousand dollars (\$25,000) if the quantity of the substance is less than ten pounds (10 lbs.); or (b) Imprisoned for no less than five (5) years nor more than twenty (20) years and/or fined no less than fifteen thousand dollars (\$15,000) nor more than fifty thousand dollars (\$50,000) if the quantity of such substance is ten pounds (10 lbs.) or more but less than one hundred pounds (100 lbs.); or (c) Imprisoned for no less than six (6) years nor more than thirty (30) years and/or fined no less than fifteen thousand dollars (\$15,000) nor more than one hundred thousand dollars (\$100,000) if the quantity of the substance is one hundred pounds (100 lbs.) or more. For all purposes other than disposition, this offense is a Class C felony."

SECTION 2. Arkansas Code 5-64-401(d) is hereby amended to read as follows:

"(d) REBUTTABLE PRESUMPTION. Possession by any person of a quantity of any controlled substance including the mixture or substance listed in this subsection in excess of the quantity limit set out herein shall create a rebuttable presumption that such person possesses such controlled substance with intent to deliver in violation of subsections (a) and (b) of this section. Provided, however, the presumption provided for herein may be overcome by the submission of evidence sufficient to create a reasonable doubt that the person charged possessed a controlled substance with intent to deliver in violation of subsections (a) and (b) of this section.

Heroin - 100 milligrams

Opium - 3 grams

Morphine - 300 milligrams

Cocaine - 1 gram  
Codeine - 300 milligrams  
Pethidine - 300 milligrams  
Hydromorphone Hydrochloride - 16 milligrams  
Methadone - 100 milligrams  
Marijuana - 1 oz.  
Hashish - 6 grams  
Lysergic Acid Diethylamide (LSD) - 100 micrograms

For controlled substances other than those listed above:

Depressant Drug - 20 hypnotic dosage units  
Stimulant Drug - 200 milligrams  
Hallucinogenic Drug - 10 dosage units."

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

APPROVED: November 17, 1989

---