

As Engrossed: 8/16/94

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**
4 **By: Representatives M. Wilson , D. Wood and Pryor**

Call Item 9
ACT 46 OF 1994
HOUSE BILL 1007

A Bill

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-64-401 TO PROVIDE THAT
9 MANUFACTURE OR DELIVERY OF SCHEDULE VI CONTROLLED
10 SUBSTANCES SHALL BE A CLASS A, B, OR C FELONY DEPENDING
11 UPON QUANTITY; TO DECLARE AN EMERGENCY; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "TO PROVIDE THAT MANUFACTURE OR DELIVERY
16 OF SCHEDULE VI CONTROLLED SUBSTANCES
17 SHALL BE A CLASS A, B, OR C FELONY
18 DEPENDING UPON QUANTITY."

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

21

22 SECTION 1. Subsection (a) of Arkansas Code 5-64-401 is amended to read
23 as follows:

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

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

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

35 A controlled substance classified in Schedules I or II, which is a
36 narcotic drug or methamphetamine, and by aggregate weight, including

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1 adulterants or diluents, is twenty-eight grams (28 g.) or more but less than
2 two hundred grams (200 g.), is guilty of a felony and shall be imprisoned for
3 not less than fifteen (15) years nor more than forty (40) years, or life, and
4 shall be fined an amount not exceeding fifty thousand dollars (\$50,000). For
5 all purposes other than disposition, this offense is a Class Y felony.

6 A controlled substance classified in Schedules I or II, which is a
7 narcotic drug or methamphetamine, and by aggregate weight, including
8 adulterants or diluents, is two hundred grams (200 g.) or more but less than
9 four hundred grams (400 g.), is guilty of a felony and shall be imprisoned for
10 not less than twenty (20) years nor more than forty (40) years, or life, and
11 shall be fined an amount not exceeding one hundred thousand dollars
12 (\$100,000). For all purposes other than disposition, this offense is a Class Y
13 felony.

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

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

27 Any other controlled substance classified in Schedules I, II, or III
28 which by aggregate weight, including adulterants or diluents, is twenty-eight
29 grams (28 g.) or more but less than four hundred grams (400 g.), is guilty of
30 a felony and shall be imprisoned for not less than ten (10) years nor more
31 than forty (40) years, or life, and shall be fined an amount not to exceed
32 fifty thousand dollars (\$50,000). For all purposes other than disposition,
33 this offense is a Class B felony.

34 Any other controlled substance classified in Schedules I, II, or III
35 which by aggregate weight, including adulterants or diluents, is four hundred

1 grams (400 g.) or more, is guilty of a felony and shall be imprisoned for not
2 less than fifteen (15) years nor more than forty (40) years, or life, and
3 shall be fined an amount not exceeding one hundred thousand dollars
4 (\$100,000). For all purposes other than disposition, this offense is a Class B
5 felony.

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

12 A substance classified in Schedules IV or V which by aggregate weight,
13 including adulterants or diluents, is two hundred grams (200 g.) or more but
14 less than four hundred grams (400 g.), is guilty of a felony and shall be
15 imprisoned for not less than ten (10) years nor more than forty (40) years, or
16 life, and shall be fined an amount not exceeding fifty thousand dollars
17 (\$50,000). For all purposes other than disposition, this offense is a Class C
18 felony.

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

25 (iv) A controlled substance classified in Schedule VI shall be
26 guilty of a felony and be: (a) Imprisoned no less than four (4) nor more than
27 ten (10) years and/or fined no more than twenty-five thousand dollars
28 (\$25,000) if the quantity of the substance is less than ten pounds (10 lbs.)
29 and for all purposes other than disposition, this offense is a Class C felony;
30 or (b) Imprisoned for no less than five (5) years nor more than twenty (20)
31 years and/or fined no less than fifteen thousand dollars (\$15,000) nor more
32 than fifty thousand dollars (\$50,000) if the quantity of such substance is ten
33 pounds (10 lbs.) or more but less than one hundred pounds (100 lbs.) and for
34 all purposes other than disposition, this offense is a Class B felony; or (c)
35 Imprisoned for no less than six (6) years nor more than thirty (30) years

1 and/or fined no less than fifteen thousand dollars (\$15,000) nor more than one
2 hundred thousand dollars (\$100,000) if the quantity of the substance is one
3 hundred pounds (100 lbs.) or more and for all purposes other than disposition,
4 this offense is a Class A felony."

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6 SECTION 2. All provisions of this act of a general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 3. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 4. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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19 SECTION 5. EMERGENCY. It is hereby found and determined by the
20 Seventy-Ninth General Assembly of the State of Arkansas, meeting in the Second
21 Extraordinary Session of 1994, that the felony classifications for
22 distribution or manufacture of Schedule VI controlled substances are not
23 sufficiently different for large and small amounts of the controlled
24 substance. It is necessary that the consequences for inchoate offenses
25 related to manufacturing or selling larger amounts of Schedule VI controlled
26 substances be immediately increased. Therefore, an emergency is hereby
27 declared to exist, and this act being immediately necessary for the
28 preservation of the public peace, health, and safety shall be in full force
29 and effect from and after its passage and approval.

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/s/Rep. M. Wilson, et al

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APPROVED: 8-25-94

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