

1 **State of Arkansas**

**Call Item 9**

2 **79th General Assembly**

# **A Bill**

3 **Second Extraordinary Session, 1994**

**HOUSE BILL 1007**

4 **By: Representatives M. Wilson , D. Wood and Pryor**

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## **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."

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## **Subtitle**

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

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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

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

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

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

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

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

35       Any other controlled substance classified in Schedules I, II, or III

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

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

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

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

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

1 Imprisoned for no less than six (6) years nor more than thirty (30) years  
2 and/or fined no less than fifteen thousand dollars (\$15,000) nor more than one  
3 hundred thousand dollars (\$100,000) if the quantity of the substance is one  
4 hundred pounds (100 lbs.) or more and for all purposes other than disposition,  
5 this offense is a Class A felony."

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

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

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

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

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*/s/Rep. M. Wilson, et al*

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