

1 (i) A controlled substance classified in Schedule I or II,
2 which is a narcotic drug, is guilty of a felony and, upon
3 conviction, may be imprisoned in ~~the~~ a state correctional facility
4 for not less than one year nor more than fifteen years, or fined
5 not more than \$25,000, or both fined and imprisoned;

6 (ii) Any other controlled substance classified in Schedule I,
7 II or III is guilty of a felony and, upon conviction, may be
8 imprisoned in ~~the~~ a state correctional facility for not less than
9 one year nor more than five years, or fined not more than \$15,000,
10 or both fined and imprisoned;

11 (iii) A substance classified in Schedule IV is guilty of a
12 felony and, upon conviction, may be imprisoned in ~~the~~ a state
13 correctional facility for not less than one year nor more than
14 three years, or fined not more than \$10,000, or both fined and
15 imprisoned;

16 (iv) A substance classified in Schedule V is guilty of a
17 misdemeanor and, upon conviction, may be confined in jail for not
18 less than six months nor more than one year, or fined not more than
19 \$5,000, or both fined and confined. ~~Provided, That~~ In addition,
20 for offenses relating to any substance classified as Schedule V in
21 article ten of this chapter, the penalties established in said
22 article apply.

23 (b) Except as authorized by this act, it is unlawful for any
24 person to create, deliver or possess with intent to deliver, a

1 counterfeit substance.

2 Any person who violates this subsection with respect to:

3 (i) A counterfeit substance classified in Schedule I or II,
4 which is a narcotic drug, is guilty of a felony and, upon
5 conviction, may be imprisoned in ~~the~~ a state correctional facility
6 for not less than one year nor more than fifteen years, or fined
7 not more than \$25,000, or both fined and imprisoned;

8 (ii) Any other counterfeit substance classified in Schedule I,
9 II or III is guilty of a felony and, upon conviction, may be
10 imprisoned in ~~the~~ a state correctional facility for not less than
11 one year nor more than five years, or fined not more than \$15,000,
12 or both fined and imprisoned;

13 (iii) A counterfeit substance classified in Schedule IV is
14 guilty of a felony and, upon conviction, may be imprisoned in ~~the~~
15 a state correctional facility for not less than one year nor more
16 than three years, or fined not more than \$10,000, or both fined and
17 imprisoned;

18 (iv) A counterfeit substance classified in Schedule V is
19 guilty of a misdemeanor and, upon conviction, may be confined in
20 jail for not less than six months nor more than one year, or fined
21 not more than \$5,000, or both fined and confined. ~~Provided, That~~
22 In addition, for offenses relating to any substance classified as
23 Schedule V in article ten of this chapter, the penalties
24 established in said article apply.

1 (c) It is unlawful for any person knowingly or intentionally
2 to possess a controlled substance unless the substance was obtained
3 directly from, or pursuant to, a valid prescription or order of a
4 practitioner while acting in the course of his or her professional
5 practice, or except as otherwise authorized by this act. Any
6 person who violates this subsection is guilty of a misdemeanor and,
7 disposition may be made under section four hundred seven of this
8 article, subject to the limitations specified in said section, or
9 upon conviction, such person may be confined in jail not less than
10 ninety days nor more than six months, or fined not more than
11 \$1,000, or both fined and confined. ~~Provided, That~~ However,
12 notwithstanding any other provision of this act to the contrary,
13 any first offense for possession of less than fifteen grams of
14 marijuana shall be disposed of under said section. Any person who
15 violates this subsection for possession of one gram or more of
16 cocaine is guilty of a felony and, upon conviction, may be
17 imprisoned in a state correctional facility for not less than one
18 year nor more than three years, or fined not more than \$10,000, or
19 both fined and imprisoned.

20 (d) It is unlawful for any person knowingly or intentionally:

21 (1) To create, distribute or deliver, or possess with intent
22 to distribute or deliver, an imitation controlled substance; or

23 (2) To create, possess or sell or otherwise transfer any
24 equipment with the intent that such equipment shall be used to

1 apply a trademark, trade name, or other identifying mark, imprint,
2 number or device, or any likeness thereof, upon a counterfeit
3 substance, an imitation controlled substance, or the container or
4 label of a counterfeit substance or an imitation controlled
5 substance.

6 (3) Any person who violates this subsection is guilty of a
7 misdemeanor and, upon conviction, may be imprisoned in jail for not
8 less than six months nor more than one year, or fined not more than
9 \$5,000, or both fined and confined. Any person being eighteen
10 years old or more who violates subdivision (1) of this subsection
11 and, in so doing, distributes or delivers an imitation controlled
12 substance to a minor child who is at least three years younger than
13 such person is guilty of a felony and, upon conviction, may be
14 imprisoned in ~~the~~ a state correctional facility for not less than
15 one year nor more than three years, or fined not more than \$10,000,
16 or both fined and imprisoned.

17 (4) ~~The provisions of~~ Subdivision (1) of this subsection shall
18 not apply to a practitioner who administers or dispenses a placebo.

NOTE: The purpose of this bill is to create the felony offense
of possession of one gram or more of cocaine.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.