CHAPTER 189

DEPRESSANT, STIMULANT AND HALLUCINOGENIC DRUGS

H. F. 285

AN ACT relating to the regulation and control of depressant, stimulant and counterfeit drugs, including drugs having a hallucinogenic effect.

Be It Enacted by the General Assembly of the State of Iowa:

SECTION 1. As used in this Act, unless the context otherwise requires:

1. "Board" means the board of pharmacy examiners.

2. "Person" means an individual, partnership, corporation, and association.

3. "Federal Act" means the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C. sections 301-392 and all amendments thereto prior to the effective date of this Act.

4. "Drug" is as defined in chapter two hundred three A (203A) of the Code.

5. "Counterfeit drug" means a drug, container or label which without authorization bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such drug and which thereby falsely represents the origin of the drug.

6. "Depressant or stimulant drug" means any one of the following:

a. Any drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or any derivative of barbituric acid which has been designated under section 502(*d*) of the Federal Act as habit-forming.

b. Any drug which contains any quantity of amphetamine or any of its optical isomers; any salt of amphetamine or any salt of an optical isomer of amphetamine; or any substance designated by regulations promulgated under the Federal Act as habit-forming because of its stimulant effect on the central nervous system.

c. Any drug, or other substance having a hallucinogenic effect, which contains any quantity of a substance designated by regulations promulgated under the Federal Act as having a potential for abuse because of its depressant or stimulant effect on the central nervous system.

7. The terms "manufacture", "dispense", "compound", or "process" include re-packaging or otherwise changing the container, wrapper, or labeling of any drug package in the process of distributing the drug from the original place of manufacture to the ultimate consumer.

8. "Medical practitioner" means a physician, dentist, veterinarian, or any other person licensed in this state to prescribe or administer drugs which are subject to this Act.

SEC. 2. Section three (3) of this Act shall not apply to the following:

1. Manufacturers, dispensers, compounders, and processors, operating in conformance with the laws of this state relating to the manufacture, dispensing, compounding or processing of drugs, who are regularly engaged in preparing pharmaceutical chemicals or prescrip-

tion drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment:

a. To pharmacies, hospitals, clinics, public health agencies for dispensing by registered pharmacists upon prescriptions, or for dispensing or other use by or under the supervision of a medical practitioner acting in the course of his professional practice; or

b. To laboratories or research or educational institutions for their use in research, teaching, or chemical analysis.

2. Suppliers, operating in conformance with the laws of this state relating to the manufacture, dispensing, compounding or processing of drugs, of manufacturers, dispensers, compounders, and processors referred to in subsection one (1) of this section.

3. Wholesale druggists who maintain their establishments in conformance with state and local laws relating to the manufacture, dispensing, compounding or processing of drugs and regularly supply prescription drugs to the persons and institutions enumerated in paragraphs *a.* and *b.* of subsection one (1) of this section.

4. Pharmacies, hospitals, clinics and public health agencies which maintain their establishments in conformance with state and local laws regulating the practice of pharmacy and medicine when such institutions are administering or dispensing drugs upon an order or prescription of a medical practitioner acting in the course of his professional practice.

5. Medical practitioners acting in the course of their professional practice.

6. Persons who use depressant or stimulant drugs in research, teaching, or chemical analysis and not for sale.

7. Officers and employees of this state, or of a political subdivision of this state or of the United States while acting in the course of their official duties.

8. An employee or agent of any person described in subsections one (1) through six (6) of this section, and a nurse or other medical technician under the supervision of a medical practitioner while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.

9. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any drug is in the usual course of his business or employment.

10. Depressant or stimulant drugs exempted under section 511(*f*) of the Federal Act.

11. Substances sold, given, delivered, dispensed, possessed or obtained for use as commercial feeds and defined in section one hundred ninety-eight point three (198.3) of the Code.

12. Peyote used in bona fide religious ceremonies of the Native American Church; however, persons supplying the product to the church are required to register and maintain appropriate records of receipts and disbursements of the article.

SEC. 3. It shall be unlawful for any person to:

1. Sell, deliver, give, dispense or otherwise make available to any person any depressant, stimulant, or counterfeit drug.

2. Possess any depressant, stimulant, or counterfeit drug unless the drug was obtained upon a valid prescription issued by a medical prac-

titioner licensed under the laws of this state or any other state or territory of the United States and is held in the original container in which the drug was delivered; or the drug was delivered by a medical practitioner in the course of his professional practice and is held in the immediate container in which the drug was delivered.

3. Obtain or attempt to obtain a depressant or stimulant drug by:

a. Fraud, deceit, misrepresentation, or subterfuge.

b. Falsely assuming the title of or representing himself to be a manufacturer, wholesaler, medical practitioner, pharmacist, owner of a pharmacy, or other person authorized to possess stimulant or depressant drugs.

c. The use of a forged or altered prescription.

d. The use of a false name or a false address on a prescription.

This subsection shall not apply to drug manufacturers, their agents or employees, when such manufacturers are authorized to engage in and are actually engaged in investigative activities directed solely toward the safeguarding of said drug manufacturer's trademark.

4. Manufacture, dispense, compound or process in this state any depressant or stimulant drug.

5. Make, sell, possess or dispose of any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit drug.

6. Do any act which causes a drug to be a counterfeit drug, or sell, dispense, or hold for sale a counterfeit drug.

SEC. 4. Every person engaged in manufacturing, dispensing, compounding, processing, selling, delivering or otherwise disposing of any depressant or stimulant drug shall maintain, and preserve for a period of at least five (5) years, complete and accurate records:

1. Of all stocks of such depressant and stimulant drugs on hand on the effective date of this Act except that if this record has already been prepared in accordance with section 511(*d*) of the Federal Act, no additional record shall be required if the records prepared under the Federal Act are retained for five (5) years.

2. Of the kind and quantity of each such depressant and stimulant drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing.

3. Of each such depressant and stimulant drug received, sold, delivered, or otherwise disposed of, the name and address from whom the drug was received and to whom it was transferred and the date of such transaction.

SEC. 5. Every person required by this Act to keep records, and any carrier maintaining records with respect to any shipment containing any depressant or stimulant drug shall, upon request of an officer or employee designated by the secretary of the board, permit such officer or employee at reasonable times to have access to and copy such records. For the purpose of verifying such records and enforcing this Act, officers or employees designated by the secretary of the board may enter at reasonable times any place or vehicle in which any depressant or stimulant drug is held, manufactured, dispensed, com-

pounded, processed, sold, delivered, or otherwise disposed of and inspect such place or vehicle, and the contents thereof.

SEC. 6. Sections four (4) and five (5) of this Act shall not apply to a medical practitioner unless the medical practitioner regularly engages in dispensing any depressant or stimulant drug to his patients for which they are charged, either separately or together with charges for other professional services.

SEC. 7. No prescription for any depressant or stimulant drug may be filled or refilled more than six (6) months after the date on which the prescription was issued and no prescription which is authorized to be refilled may be refilled more than five (5) times, except that nothing in this Act shall prevent a medical practitioner from issuing a new prescription for the same drug either in writing or orally. Any oral prescription shall be promptly reduced to writing on a prescription blank and filed by the pharmacist filling the prescription.

SEC. 8. Any officer or employee of the board designated by the secretary of the board to conduct examinations, investigations, or inspections under this Act relating to depressant, stimulant or counterfeit drugs shall have all the powers of other peace officers and may arrest without warrant for offenses under this Act committed in his presence or, in the case of a felony, if he has probable cause to believe that the person arrested has committed or is committing such offense. Such officers and employees shall have the same powers as other peace officers to seize drugs or articles used in the manufacture or sale of drugs which they have reasonable grounds to believe are in violation of this Act. Such drugs or articles shall be subject to condemnation.

SEC. 9. The board shall promulgate regulations to carry out this Act, and such regulations shall conform, insofar as practicable, with those promulgated under the Federal Act.

SEC. 10. Any person who violates any of the provisions of this Act shall be guilty of a felony and shall, upon conviction for a first offense, be subject to a fine of not more than one thousand (1,000) dollars or imprisonment for not more than one (1) year, or both such fine and imprisonment. On conviction for the second or any subsequent offense, such person shall be subject to a fine of not more than two thousand (2,000) dollars or imprisonment for not more than five (5) years, or both such fine and imprisonment.

SEC. 11. Any person eighteen (18) years of age or more who is convicted for a violation of subsection one (1) of section three (3) of this Act by selling, delivering, or otherwise making available any depressant or stimulant drug to a person under twenty-one (21) years of age shall, for a first offense, be subject to a fine of not more than two thousand (2,000) dollars or imprisonment for not more than five (5) years, or both such fine and imprisonment. On conviction for the second or any subsequent offense, such person shall be subject to a fine of not more than five thousand (5,000) dollars or imprisonment for not more than twenty (20) years, or both such fine and imprisonment.

SEC. 12. The board may bring ordinary civil proceedings to enforce this Act or to enjoin any person from violation of the Act.

SEC. 13. The attorney general or the county attorney where an offense is committed shall cause appropriate proceedings to be instituted in the proper courts when requested by the board.

Approved July 5, 1967.

This Act was passed by the G. A. before July 1, 1967.

CHAPTER 190

HAY AND STRAW

S. F. 222

AN ACT relating to the sale of hay and straw.

Be It Enacted by the General Assembly of the State of Iowa:

SECTION 1. Section two hundred twelve point five (212.5), Code 1966, is hereby repealed.

Approved May 11, 1967.

CHAPTER 191

ANNUITY CONTRACTS FOR CERTAIN STATE EMPLOYEES

S. F. 334

AN ACT relating to the purchase of annuity contracts for employees of the institutions under the jurisdiction of the board of control.

Be It Enacted by the General Assembly of the State of Iowa:

SECTION 1. Chapter two hundred eighteen (218), Code 1966, is hereby amended by adding the following section:

"At the request of an employee through contractual agreement, the board of control or any institution under its jurisdiction may purchase an individual annuity contract for an employee, from such insurance organization authorized to do business in this state and through an Iowa-licensed insurance agent as the employee may select, for retirement or other purposes and may make payroll deductions in accordance with such arrangements for the purpose of paying the entire premium due and to become due under such contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section four hundred three b (403b) of the Internal Revenue Code of 1954 and amendments thereto. The employee's rights under such annuity contract shall be nonforfeitable except for the failure to pay premiums."

Approved June 30, 1967.