

**152.023 CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.**

Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in the third degree if:

- (1) the person unlawfully sells one or more mixtures containing a narcotic drug;
- (2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units;
- (3) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except a Schedule I or II narcotic drug, to a person under the age of 18;
- (4) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing a controlled substance listed in Schedule I, II, or III, except a Schedule I or II narcotic drug; or
- (5) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime in the third degree if:

- (1) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing cocaine, heroin, or methamphetamine;
- (2) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;
- (3) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units;
- (4) on one or more occasions within a 90-day period the person unlawfully possesses any amount of a schedule I or II narcotic drug or five or more dosage units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing zone, or a drug treatment facility;
- (5) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols; or
- (6) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, a public housing zone, or a drug treatment facility.

(b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$250,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections for not less than two years nor more than 30 years and, in addition, may be sentenced to payment of a fine of not more than \$250,000.

(c) In a prosecution under subdivision 1 or 2 involving sales or acts of possession by the same person in two or more counties within a 90-day period, the person may be prosecuted in any county in which one of the sales or acts of possession occurred.

**History:** 1989 c 290 art 3 s 10; 1990 c 602 art 7 s 3,4; 1991 c 199 art 1 s 54; 1991 c 279 s 5; 1992 c 359 s 8; 1993 c 326 art 3 s 2; art 13 s 7; 1995 c 244 s 3; 1997 c 239 art 4 s 9-11; 1998 c 367 art 4 s 3; 1Sp2001 c 8 art 8 s 3; 2011 c 53 s 8