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## Idaho Statutes

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TITLE 37  
FOOD, DRUGS, AND OIL

CHAPTER 27  
UNIFORM CONTROLLED SUBSTANCES

ARTICLE IV

37-2732. PROHIBITED ACTS A – PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:  
(A) A controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, except as provided for in section 37-2732B(a)(3), Idaho Code, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars (\$25,000), or both;  
(B) Any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars (\$15,000), or both;  
(C) A substance classified in schedule IV is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars (\$10,000), or both;  
(D) A substance classified in schedules V and VI is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars (\$5,000), or both.  
(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:  
(A) A counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars (\$25,000), or both;  
(B) Any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars (\$15,000), or both;  
(C) A counterfeit substance classified in schedule IV is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars (\$10,000), or both;  
(D) A counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars (\$5,000), or both.  
(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II is guilty of a felony and upon conviction may be imprisoned for not more than seven (7) years, or fined not more than fifteen thousand dollars (\$15,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars (\$5,000), or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars (\$1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars (\$300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, including the extract or any preparation of cannabis which contains tetrahydrocannabinol, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars (\$10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punished by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars (\$300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the uniform controlled substances act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(bb), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony or misdemeanor violation under this chapter or upon conviction of a felony pursuant to the racketeering act, section 18-7804, Idaho Code, or the money laundering and illegal investment provisions of section 18-8201, Idaho Code, the court may order restitution for costs incurred by law enforcement agencies in investigating the violation. Law enforcement agencies shall include, but not be limited to, the Idaho state police, county and city law enforcement agencies, the office of the attorney general and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or prosecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the Idaho state police, those moneys shall be paid to the Idaho state police for deposit into the drug and driving while under the influence enforcement donation fund created in section 57-816, Idaho Code. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general fund. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

History:

[37-2732, added 1971, ch. 215, sec. 1, p. 939; am. 1972, ch. 133, sec. 6, p. 261; am. 1972, ch. 409, sec. 1, p. 1195; am. 1974, sec. 242, sec. 1, p. 1606; am. 1977, ch. 185, sec. 1, p. 515; am. 1982, ch. 169, sec. 2, p. 447; am. 1983, ch. 218, sec. 2, p. 605; am. 1984, ch. 200, sec. 1, p. 490; am. 1986, ch. 286, sec. 1, p. 709; am. 1989, ch. 268, sec. 2, p. 654; am. 1992, ch. 20, sec. 1, p. 64; am. 1993, ch. 105, sec. 1, p. 266; am. 1999, ch. 143, sec. 1, p. 407; am. 2000, ch. 469, sec. 86, p. 1533; am. 2004, ch. 242, sec. 1, p. 705; am. 2009, ch. 108, sec. 3, p. 348; am. 2010, ch. 118, sec. 3, p. 262; am. 2021, ch. 35, sec. 5, p. 86.]

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