

No. 212, A.]

[Published September 21, 1961.

CHAPTER 477

AN ACT to repeal 161.02 (2) and 161.275 (2); to amend 161.02 (1) and 161.275 (1); and to create 161.28 of the statutes, relating to certain narcotic and marijuana violations; providing penalties; and forbidding withholding of sentence, staying of execution and granting of parole.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 161.02 (1) of the statutes is amended to read:

161.02 (1) It is unlawful for any person to manufacture, possess, have control of, buy, sell, give away, prescribe, administer, dispense or compound any narcotic drug, except as authorized in this chapter. Any person violating this * * * subsection shall be punished as provided in s. 161.28 (1).

SECTION 2. 161.02 (2) of the statutes is repealed.

SECTION 3. 161.275 (1) of the statutes is amended to read:

161.275 (1) It is unlawful for any person to grow, cultivate, mix, compound, have control of, prepare, possess, prescribe, sell, give away, administer or dispense marijuana or hemp or the leaves or seeds thereof, or any infusion of marijuana or hemp, or of its leaves or seeds, for beverage or smoking purposes. Any person violating this subsection shall be * * * *punished as provided in s. 161.28 (1).*

SECTION 4. 161.275 (2) of the statutes is repealed.

SECTION 5. 161.28 of the statutes is created to read:

161.28 PENALTIES; SENTENCE; PROBATION AND PAROLE; EVIDENCE AND PROCEDURE ON PRIOR CONVICTIONS. (1) Any person who violates s. 161.02 (1) or 161.275 (1) shall be imprisoned not less than 2 nor more than 10 years. For a second offense or if, in case of a first conviction of violating s. 161.02 (1) or 161.275 (1) such person had previously been convicted of any violation of the laws of the United States or of any state, territory or district thereof, relating to narcotic drugs or marijuana, such person shall be imprisoned not less than 5 nor more than 10 years. For a third or subsequent offense, or if such person had previously been convicted 2 or more times in the aggregate of any violation of the laws of the United States or of any state, territory or district thereof, relating to narcotic drugs or marijuana, such person shall be imprisoned not less than 10 nor more than 20 years. Except for a first offense sentence shall not be withheld or its execution stayed pursuant to ch. 57, and parole shall not be granted until the minimum imprisonment provided for the offense has been served, less good time allowances as provided in ss. 53.11 and 53.12.

(2) Any person making an illegal sale of narcotic drugs or marijuana to any person under the age of 21 years shall be imprisoned not less than 3 years nor more than 25 years. For a second conviction for such offense, such person shall be imprisoned for not less than 20 years nor more than life. For a third conviction for such offense such person shall be imprisoned for life. Except for a first offense, sentence shall not be withheld or its execution stayed pursuant to ch. 57, and parole shall not be granted until the minimum imprisonment provided for the offense has been served, less good time allowances as provided in ss. 53.11 and 53.12.

(3) The procedure for charging and determining prior convictions under this section shall be as provided in s. 959.12 (1).

Approved September 15, 1961.
