

(e) (D) FOR THE PURPOSE OF DETERMINING WHETHER THIS SECTION HAS BEEN VIOLATED, THE COURT OR OTHER AUTHORITY SHALL INCLUDE IN ITS CONSIDERATION THE FOLLOWING:

(1) WHETHER THE NONCONTROLLED SUBSTANCE WAS PACKAGED IN A MANNER NORMALLY USED FOR THE ILLEGAL DELIVERY DISTRIBUTION OF CONTROLLED SUBSTANCES;

(2) WHETHER THE DELIVERY DISTRIBUTION OR ATTEMPTED DELIVERY DISTRIBUTION INCLUDED AN EXCHANGE OF OR DEMAND FOR MONEY OR OTHER PROPERTY AS CONSIDERATION, AND WHETHER THE AMOUNT OF THE CONSIDERATION WAS SUBSTANTIALLY GREATER THAN THE REASONABLE VALUE OF THE NONCONTROLLED SUBSTANCE;

(3) WHETHER THE PHYSICAL APPEARANCE OF THE FINISHED-PRODUCT-CONTAINING THE NONCONTROLLED SUBSTANCE IS SUBSTANTIALLY IDENTICAL TO THAT OF A CONTROLLED DANGEROUS SUBSTANCE.

(D) (E) IN ANY PROSECUTION BROUGHT UNDER THIS SECTION, THE-DEFENDANT-MAY-NOT-RAISE-AS-A-DEFENSE--THAT--HE--BELIEVED THE--NONCONTROLLED--SUBSTANCE--TO--ACTUALLY--BE-A-CONTROLLED SUBSTANCE. IT IS NO NOT A DEFENSE TO A VIOLATION OF THIS SECTION THAT THE DEFENDANT BELIEVED THE NONCONTROLLED SUBSTANCE TO ACTUALLY BE A CONTROLLED DANGEROUS SUBSTANCE.

(E) (F) ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION WITH RESPECT TO-- THE DISTRIBUTION, ATTEMPT TO DISTRIBUTE, OR POSSESSION WITH INTENT TO DISTRIBUTE A NONCONTROLLED SUBSTANCE AS A CONTROLLED DANGEROUS SUBSTANCE, IS GUILTY OF A FELONY AND, UPON CONVICTION, IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR A FINE OF NOT MORE THAN \$15,000 OR BOTH.

(1)-(1)--THE--DELIVERY--ATTEMPTED--DELIVERY--OR POSSESSION--WITH--INTENT--TO--DELIVER--OF--A--NONCONTROLLED SUBSTANCE--AS--A--SUBSTANCE--CLASSIFIED--IN--SCHEDULES--I--OR--II WHICH--IS--A--NARCOTIC--DRUG--IS--GUILTY--OF--A--FELONY--AND--UPON CONVICTION--IS--SUBJECT--TO--IMPRISONMENT--FOR--NOT--MORE--THAN--20 YEARS--OR--A--FINE--OF--NOT--MORE--THAN--\$25,000--OR--BOTH.

(11)--THIS--SECTION--DOES--NOT--PREVENT, PROHIBIT,--OR--MAKE--INELIGIBLE--ANY--CONVICTED--DEFENDANT--FROM PARTICIPATING--IN--A--REHABILITATION--PROGRAM--UNDER--ARTICLE--43B, §§--12--AND--13,--BECAUSE--OF--LENGTH--OF--SENTENCE.

(2)--THE--DELIVERY--ATTEMPTED--DELIVERY--OR POSSESSION--WITH--INTENT--TO--DELIVER--OF--A--NONCONTROLLED SUBSTANCE--AS--A--PHENCYCLIDINE--CLASSIFIED--IN--SCHEDULE--II--IS GUILTY--OF--A--FELONY--AND--UPON--CONVICTION--IS--SUBJECT--TO IMPRISONMENT--FOR--NOT--MORE--THAN--10--YEARS--OR--A--FINE--OF--NOT MORE--THAN--\$20,000--OR--BOTH.