

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2505

(BY DELEGATES PERDUE, BOGGS, HATFIELD, CANN,
RODIGHIERO, MOYE, POORE, BORDER, C. MILLER, HAMILTON
AND LAWRENCE)

(Originating in the Committee on the Judiciary)
[January 27, 2011]

A BILL to amend and reenact §60A-1-101 the Code of West Virginia, 1931, as amended, and to amend and reenact §60A-2-204 of said code, all relating to adding certain cannabinoids, hallucinogens and stimulants to the Schedule I list of controlled substances; and clarifying references to definitions.

Be it enacted by the Legislature of West Virginia:

That §60A-1-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted, that §60A-2-204 of said code be amended and reenacted, and that §60A-4-401 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-1-101. Definitions.

1 As used in this act:

2 (a) “Administer” means the direct application of a
3 controlled substance whether by injection, inhalation,
4 ingestion or any other means to the body of a patient or
5 research subject by:

6 (1) A practitioner (or, in his presence, by his
7 authorized agent); or

8 (2) The patient or research subject at the direction and
9 in the presence of the practitioner.

10 (b) “Agent” means an authorized person who acts on
11 behalf of or at the direction of a manufacturer, distributor

12 or dispenser. It does not include a common or contract
13 carrier, public warehouseman or employee of the carrier or
14 warehouseman.

15 (c) “Analogue” means a substance that, in relation to
16 a controlled substance, has a substantially similar chemical
17 structure.

18 ~~(c)~~ (d) “Bureau” means the “Bureau of Narcotics and
19 Dangerous Drugs, United States Department of Justice” or
20 its successor agency.

21 ~~(d)~~ (e) “Controlled substance” means a drug, substance
22 or immediate precursor in Schedules I through V of article
23 two.

24 ~~(e)~~ (f) “Counterfeit substance” means a controlled
25 substance which, or the container or labeling of which,
26 without authorization, bears the trademark, trade name or
27 other identifying mark, imprint, number or device, or any
28 likeness thereof, of a manufacturer, distributor or
29 dispenser other than the person who in fact manufactured,
30 distributed or dispensed the substance.

31 ~~(f)~~(g) “Imitation controlled substance” means: (1) A
32 controlled substance which is falsely represented to be a
33 different controlled substance; (2) a drug or substance
34 which is not a controlled substance but which is falsely
35 represented to be a controlled substance; or (3) a
36 controlled substance or other drug or substance or a
37 combination thereof which is shaped, sized, colored,
38 marked, imprinted, numbered, labeled, packaged,
39 distributed or priced so as to cause a reasonable person to
40 believe that it is a controlled substance.

41 ~~(g)~~ (h) “Deliver” or “delivery” means the actual,
42 constructive or attempted transfer from one person to
43 another of: (1) A controlled substance, whether or not
44 there is an agency relationship; (2) a counterfeit substance;
45 or (3) an imitation controlled substance.

46 ~~(h)~~ (i) “Dispense” means to deliver a controlled
47 substance to an ultimate user or research subject by or
48 pursuant to the lawful order of a practitioner, including the

49 prescribing, administering, packaging, labeling or
50 compounding necessary to prepare the substance for that
51 delivery.

52 ~~(i)~~ (j) “Dispenser” means a practitioner who dispenses.

53 ~~(j)~~ (k) “Distribute” means to deliver, other than by
54 administering or dispensing, a controlled substance, a
55 counterfeit substance or an imitation controlled substance.

56 ~~(k)~~ (l) “Distributor” means a person who distributes.

57 ~~(l)~~ (m) “Drug” means: (1) Substances recognized as
58 drugs in the official “United States Pharmacopoeia,
59 official Homeopathic Pharmacopoeia of the United States
60 or official National Formulary”, or any supplement to any
61 of them; (2) substances intended for use in the diagnosis,
62 cure, mitigation, treatment or prevention of disease in man
63 or animals; (3) substances (other than food) intended to
64 affect the structure or any function of the body of man or
65 animals; and (4) substances intended for use as a
66 component of any article specified in clause (1), (2) or (3)

67 of this subdivision. It does not include devices or their
68 components, parts or accessories.

69 (n) “Immediate derivative” means a substance which
70 the “West Virginia Board of Pharmacy” has found to be
71 and by rule designates as being the principal compound or
72 any analogue of the parent compound manufactured from
73 a known controlled substance primarily for use and which
74 has equal or similar pharmacologic activity as the parent
75 compound which is necessary to prevent, curtail or limit
76 manufacture.

77 ~~(m)~~ (o) “Immediate precursor” means a substance which
78 the “West Virginia Board of Pharmacy” (hereinafter in this
79 act referred to as the State Board of Pharmacy) has found to
80 be and by rule designates as being the principal compound
81 commonly used or produced primarily for use and which is
82 an immediate chemical intermediary used or likely to be used
83 in the manufacture of a controlled substance, the control of
84 which is necessary to prevent, curtail or limit manufacture.

85 (π)(p) “Manufacture” means the production, preparation,
86 propagation, compounding, conversion or processing of a
87 controlled substance, either directly or indirectly or by
88 extraction from substances of natural origin, or
89 independently by means of chemical synthesis, or by a
90 combination of extraction and chemical synthesis, and
91 includes any packaging or repackaging of the substance or
92 labeling or relabeling of its container, except that this term
93 does not include the preparation, compounding, packaging
94 or labeling of a controlled substance:

95 (1) By a practitioner as an incident to his administering
96 or dispensing of a controlled substance in the course of his
97 professional practice; or

98 (2) By a practitioner, or by his authorized agent under
99 his supervision, for the purpose of, or as an incident to,
100 research, teaching or chemical analysis and not for sale.

101 (σ) (q) “Marijuana” means all parts of the plant
102 “Cannabis sativa L.”, whether growing or not; the seeds

103 thereof; the resin extracted from any part of the plant; and
104 every compound, manufacture, salt, immediate derivative,
105 mixture or preparation of the plant, its seeds or resin. It
106 does not include the mature stalks of the plant, fiber
107 produced from the stalks, oil or cake made from the seeds
108 of the plant, any other compound, manufacture, salt,
109 immediate derivative, mixture or preparation of the mature
110 stalks (except the resin extracted therefrom), fiber, oil or
111 cake, or the sterilized seed of the plant which is incapable
112 of germination.

113 (p) (r) “Narcotic drug” means any of the following,
114 whether produced directly or indirectly by extraction from
115 substances of vegetable origin or independently by means
116 of chemical synthesis, or by a combination of extraction
117 and chemical synthesis:

118 (1) Opium and opiate and any salt, compound,
119 immediate derivative or preparation of opium or opiate.

120 (2) Any salt, compound, isomer, immediate derivative
121 or preparation thereof which is chemically equivalent or
122 identical with any of the substances referred to in
123 paragraph (1) of this subdivision, but not including the
124 isoquinoline alkaloids of opium.

125 (3) Opium poppy and poppy straw.

126 (4) Coca leaves and any salt, compound, immediate
127 derivative or preparation of coca leaves and any salt,
128 compound, isomer, immediate derivative or preparation
129 thereof which is chemically equivalent or identical with
130 any of these substances, but not including decocainized
131 coca leaves or extractions of coca leaves which do not
132 contain cocaine or ecgonine.

133 ~~(t)~~ (s) “Opiate” means any substance having an
134 addiction-forming or addiction-sustaining liability similar
135 to morphine or being capable of conversion into a drug
136 having addiction-forming or addiction-sustaining liability.
137 It does not include, unless specifically designated as

138 controlled under section two hundred one, article two of
139 this chapter, the dextrorotatory isomer of 3-methoxy-n-
140 methylmorphinan and its salts (dextromethorphan). It does
141 not include its racemic and levorotatory forms.

142 (r) (t) “Opium poppy” means the plant of the species
143 “*Papaver somniferum* L.”, except its seeds.

144 (s) (u) “Person” means individual, corporation,
145 government or governmental subdivision or agency,
146 business trust, estate, trust, partnership or association, or
147 any other legal entity.

148 (t) (v) “Placebo” means an inert medicament or
149 preparation administered or dispensed for its
150 psychological effect, to satisfy a patient or research subject
151 or to act as a control in experimental series.

152 (u) (w) “Poppy straw” means all parts, except the
153 seeds, of the opium poppy after mowing.

154 (v) (x) “Practitioner” means:

155 (1) A physician, dentist, veterinarian, scientific
156 investigator or other person licensed, registered or
157 otherwise permitted to distribute, dispense, conduct
158 research with respect to, or to administer a controlled
159 substance in the course of professional practice or research
160 in this state.

161 (2) A pharmacy, hospital or other institution licensed,
162 registered or otherwise permitted to distribute, dispense,
163 conduct research with respect to, or to administer a
164 controlled substance in the course of professional practice
165 or research in this state.

166 ~~(w)~~ (y) “Production” includes the manufacture,
167 planting, cultivation, growing or harvesting of a controlled
168 substance.

169 ~~(x)~~ (z) “State”, when applied to a part of the United
170 States, includes any state, district, commonwealth,
171 territory, insular possession thereof and any area subject to
172 the legal authority of the United States of America.

173 ~~(y)~~(aa) “Ultimate user” means a person who lawfully
174 possesses a controlled substance for his own use or for the
175 use of a member of his household or for administering to
176 an animal owned by him or by a member of his household.

§60A-2-204. Schedule I.

1 (a) Schedule I shall consist of the drugs and other
2 substances, by whatever official name, common or usual
3 name, chemical name, or brand name designated, listed in
4 this section.

5 (b) Opiates. Unless specifically excepted or unless
6 listed in another schedule, any of the following opiates,
7 including their isomers, esters, ethers, salts and salts of
8 isomers, esters and ethers, whenever the existence of such
9 isomers, esters, ethers and salts is possible within the
10 specific chemical designation (for purposes of subdivision
11 (34) of this subsection only, the term isomer includes the
12 optical and geometric isomers):

13 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-
14 phenethyl)-4-piperidinyl]-N-phenylacetamide);

- 15 (2) Acetylmethadol;
- 16 (3) Allylprodine;
- 17 (4) Alphacetylmethadol (except levoalphacetylmethadol
18 also known as levo-alpha-acetylmethadol, levomethadyl
19 acetate, or LAAM);
- 20 (5) Alphameprodine;
- 21 (6) Alphamethadol;
- 22 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-
23 phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-
24 phenylethyl)-4-(N- propanilido) piperidine);
- 25 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)
26 ethyl- 4-piperidiny]-N-phenylpropanamide);
- 27 (9) Benzethidine;
- 28 (10) Betacetylmethadol;
- 29 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)
30 -4- piperidiny]-N-phenylpropanamide);
- 31 (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-
32 hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenyl
33 propanamide);

- 34 (13) Betameprodine;
- 35 (14) Betamethadol;
- 36 (15) Betaprodine;
- 37 (16) Clonitazene;
- 38 (17) Dextromoramide;
- 39 (18) Diampromide;
- 40 (19) Diethylthiambutene;
- 41 (20) Difenoxin;
- 42 (21) Dimenoxadol;
- 43 (22) Dimepheptanol;
- 44 (23) Dimethylthiambutene;
- 45 (24) Dioxaphetyl butyrate;
- 46 (25) Dipipanone;
- 47 (26) Ethylmethylthiambutene;
- 48 (27) Etonitazene;
- 49 (28) Etoxidine;
- 50 (29) Furethidine;
- 51 (30) Hydroxypethidine;

- 52 (31) Ketobemidone;
- 53 (32) Levomoramide;
- 54 (33) Levophenacymorphan;
- 55 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
56 piperidyl]-N-phenylpropanamide);
- 57 (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)
58 ethyl-4- piperidiny]-N-phenylpropanamide);
- 59 (36) Morpheridine;
- 60 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 61 (38) Noracymethadol;
- 62 (39) Norlevorphanol;
- 63 (40) Normethadone;
- 64 (41) Norpipanone;
- 65 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
66 phenethyl)-4-piperidiny] propanamide);
- 67 (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 68 (44) Phenadoxone;
- 69 (45) Phenampromide;

70 (46) Phenomorphan;

71 (47) Phenoperidine;

72 (48) Piritramide;

73 (49) Proheptazine;

74 (50) Properidine;

75 (51) Propiram;

76 (52) Racemoramide;

77 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-

78 piperidinyl]-propanamide);

79 (54) Tilidine;

80 (55) Trimeperidine.

81 (c) Opium derivatives. -- Unless specifically excepted or

82 unless listed in another schedule, any of the following

83 opium immediate derivatives, its salts, isomers and salts of

84 isomers whenever the existence of such salts, isomers and

85 salts of isomers is possible within the specific chemical

86 designation:

87 (1) Acetorphine;

- 88 (2) Acetyldihydrocodeine;
- 89 (3) Benzylmorphine;
- 90 (4) Codeine methylbromide;
- 91 (5) Codeine-N-Oxide;
- 92 (6) Cyprenorphine;
- 93 (7) Desomorphine;
- 94 (8) Dihydromorphine;
- 95 (9) Drotebanol;
- 96 (10) Etorphine (except HCl Salt);
- 97 (11) Heroin;
- 98 (12) Hydromorphanol;
- 99 (13) Methyldesorphine;
- 100 (14) Methyldihydromorphine;
- 101 (15) Morphine methylbromide;
- 102 (16) Morphine methylsulfonate;
- 103 (17) Morphine-N-Oxide;
- 104 (18) Myrophine;
- 105 (19) Nicocodeine;

106 (20) Nicomorphine;

107 (21) Normorphine;

108 (22) Pholcodine;

109 (23) Thebacon.

110 (d) Hallucinogenic substances. -- Unless specifically
111 excepted or unless listed in another schedule, any material,
112 compound, mixture or preparation, which contains any
113 quantity of the following hallucinogenic substances, or
114 which contains any of its salts, isomers and salts of
115 isomers, whenever the existence of such salts, isomers,
116 and salts of isomers is possible within the specific
117 chemical designation (for purposes of this subsection only,
118 the term "isomer" includes the optical, position and
119 geometric isomers):

120 (1) Alpha-ethyltryptamine; some trade or other names:
121 etryptamine; Monase; alpha-ethyl-1H-indole-3-
122 ethanamine; 3-(2- aminobutyl) indole; alpha-ET; and
123 AET;

124 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or
125 other names: 4-bromo-2,5-dimethoxy-alpha-
126 methylphenethylamine; 4-bromo- 2,5-DMA;

127 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or
128 other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-
129 aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

130 (4) 2,5-dimethoxyamphetamine; some trade or other
131 names: 2,5-dimethoxy-alpha-methylphenethylamine;
132 2,5-DMA;

133 (5) 2,5-dimethoxy-4-ethylamphet-amine; some trade or
134 other names: DOET;

135 (6) 4-methoxyamphetamine; some trade or other names:
136 4 - m e t h o x y - a l p h a - m e t h y l p h e n e t h y l a m i n e ;
137 paramethoxyamphetamine; PMA;

138 (7) 5-methyloxy-3, 4-methylenedioxy-amphetamine;

139 (8) 4-methyl-2,5-dimethoxy-amphetamine; some trade and
140 other names: 4-methyl-2,5-dimethoxy-alpha-
141 methylphenethylamine; “DOM”; and “STP”;

- 142 (9) 3,4-methylenedioxy amphetamine;
- 143 (10) 3,4-methylenedioxymethamphetamine (MDMA);
- 144 (11) 3,4-methylenedioxy-N-ethylamphetamine (also known
- 145 as N- ethyl-alpha-methyl-3,4 (methylenedioxy)
- 146 phenethylamine, N-ethyl MDA, MDE, MDEA);
- 147 (12) N-hydroxy-3,4-methylenedioxyamphetamine (also
- 148 known as N- hydroxy-alpha-methyl-3,4 (methylenedioxy)
- 149 phenethylamine, and N- hydroxy MDA);
- 150 (13) 3,4,5-trimethoxy amphetamine;
- 151 (14) Bufotenine; some trade and other names: 3-
- 152 (beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimet
- 153 hylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-
- 154 hydroxy-N,N- dimethyltryptamine; mappine;
- 155 (15) Diethyltryptamine; some trade and other names:
- 156 N, N-Diethyltryptamine; DET;
- 157 (16) Dimethyltryptamine; some trade or other names:
- 158 DMT;

- 159 (17) Ibogaine; some trade and other names: 7-Ethyl-6, 6
160 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,
161 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b]
162 indole; Tabernanthe iboga;
- 163 (18) Lysergic acid diethylamide;
- 164 (19) Marihuana;
- 165 (20) Mescaline;
- 166 (21) Parahexyl-7374; some trade or other names:
167 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6,
168 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;
- 169 (22) Peyote; meaning all parts of the plant presently
170 classified botanically as *Lophophora williamsii* Lemaire,
171 whether growing or not, the seeds thereof, any extract
172 from any part of such plant, and every compound,
173 manufacture, salts, immediate derivative, mixture or
174 preparation of such plant, its seeds or extracts;
- 175 (23) N-ethyl-3-piperidyl benzilate;
- 176 (24) N-methyl-3-piperidyl benzilate;

177 (25) Psilocybin;

178 (26) Psilocyn;

179 (27) Tetrahydrocannabinols; synthetic equivalents of the

180 substances contained in the plant, or in the resinous

181 extractives of Cannabis, sp. and/or synthetic substances,

182 immediate derivatives and their isomers with similar

183 chemical structure and pharmacological activity such as

184 the following:

185 delta-1 Cis or trans tetrahydrocannabinol, and their optical

186 isomers;

187 delta-6 Cis or trans tetrahydrocannabinol, and their optical

188 isomers;

189 delta-3,4 Cis or trans tetrahydrocannabinol, and its optical

190 isomers;

191 (Since nomenclature of these substances is not

192 internationally standardized, compounds of these

193 structures, regardless of numerical designation of atomic

194 positions covered.)

195 (28) Ethylamine analog of phencyclidine; some trade or
196 other names: N-ethyl-1-phenylcyclohexylamine,
197 (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)
198 ethylamine, cyclohexamine, PCE;

199 (29) Pyrrolidine analog of phencyclidine; some trade or
200 other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy,
201 PHP;

202 (30) Thiophene analog of phencyclidine; some trade or
203 other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine,
204 2-thienylanalog of phencyclidine; TCP, TCP;

205 (31) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other
206 names: TCPy.

207 (32) Synthetic Cannabinoids as follows:

208 (a) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
209 yl)phenol {also known as CP 47,497 and homologues};

210 (b) rel-2-[(1S,3R)-3-hydroxycyclohexyl]-5-(2-
211 methylnonan-2-yl)phenol {also known as CP 47,497-C8
212 homolog};

213 (c) [(6aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
214 m e t h y l o c t a n - 2 - y l) - 6 a , 7 , 1 0 , 1 0 a -
215 tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-
216 210};

217 (d) (dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-
218 dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-
219 tetrahydrobenzol[c]chromen-1-ol) {also known as HU-
220 211};

221 (e) 1-Pentyl-3-(1-naphthoyl)indole {also known as JWH-
222 018};

223 (f) 1-Butyl-3-(1-naphthoyl)indole {also known as JWH-
224 073};

225 (g) (2-methyl-1-propyl-1H-indol-3-yl)-1naphthalenyl-
226 methanone {also known as JWH-015};

227 (h) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone
228 {also known as JWH-019};

229 (i) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-
230 naphthalenyl-methanone {also known as JWH-200};

- 231 (j) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-
232 ethanone {also known as JWH-250};
- 233 (k) 2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)
234 cyclohexyl)-5-(2-methyloctan-2-yl)phenol {also known as
235 CP 55,940};
- 236 (l) (4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-
237 methanone {also known as JWH-122};
- 238 (m) (4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-
239 methanone {also known as JWH-398};
- 240 (n) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone
241 {also known as RCS-4};
- 242 (o) 1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
243 methoxyphenyl)ethanone {also known as RCS-8}; and
244 (Since nomenclature of these substances is not
245 internationally standardized, any immediate precursor or
246 immediate derivative of these substances shall be
247 covered).

248 (e) Depressants. Unless specifically excepted or unless
249 listed in another schedule, any material, compound,
250 mixture, or preparation which contains any quantity of the
251 following substances having a depressant effect on the
252 central nervous system, including its salts, isomers and
253 salts of isomers whenever the existence of such salts,
254 isomers and salts of isomers is possible within the specific
255 chemical designation:

256 (1) Mecloqualone;

257 (2) Methaqualone.

258 (f) Stimulants. Unless specifically excepted or unless
259 listed in another schedule, any material, compound,
260 mixture, or preparation which contains any quantity of the
261 following substances having a stimulant effect on the
262 central nervous system, including its salts, isomers, and
263 salts of isomers:

264 (1) Aminorex; some other names: aminoxaphen;
265 2-amino-5- phenyl-2-oxazoline; or 4,5-dihydro-
266 5-phenyl-2-oxazolamine;

- 267 (2) Cathinone; some trade or other names:
268 2 - a m i n o - 1 - p h e n y l - 1 - p r o p a n o n e ,
269 alpha-aminopropiophenone, 2-aminopropiophenone, and
270 norephedrone;
- 271 (3) Fenethylamine;
- 272 (4) Methcathinone, its immediate precursors and
273 immediate derivatives, its salts, optical isomers and salts
274 of optical isomers; some other names:
275 (2-(methylamino)-propionophenone; alpha- (methylamino)
276 ropiophenone; 2- methylamino)-1-phenylpropan-1- one;
277 alpha-N-methylaminopropiophenone; monomethylpropion;
278 3,4-methylenedioxypropionophenone and/or mephedrone;3,4-
279 methylenedioxypropionophenone (MPVD); ephedrone;
280 N-methylcathinone; methylcathinone; AL-464; AL-422;
281 AL- 463 and UR1432;
- 282 (5) (+-) cis-4-methylaminorex; ((+/-)cis-4,5-dihydro-4-
283 ethyl- 5- phenyl-2-oxazoline);
- 284 (6) N-ethylamphetamine;

285 (7) N,N-dimethylamphetemine; also known as N,N-alpha-
286 trimethyl-benzeneethanamine; N,N-alpha-
287 rimethylphenethylamine.

288 (g) Temporary listing of substances subject to emergency
289 scheduling. Any material, compound, mixture or
290 preparation which contains any quantity of the following
291 substances:

292 (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide
293 (benzylfentanyl), its optical isomers, salts, and salts of
294 isomers.

295 (2)N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropan
296 amide (thenylfentanyl), its optical isomers, salts and salts
297 of isomers.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-401. Prohibited acts A; penalties.

- 1 (a) Except as authorized by this act, it is unlawful for
- 2 any person to manufacture, deliver, or possess with intent
- 3 to manufacture or deliver, a controlled substance.

4 Any person who violates this subsection with respect

5 to:

6 (i) A controlled substance classified in Schedule I or II,

7 which is a narcotic drug, is guilty of a felony and, upon

8 conviction, may be imprisoned in the state correctional

9 facility for not less than one year nor more than fifteen

10 years, or fined not more than twenty-five thousand dollars,

11 or both;

12 (ii) Any other controlled substance classified in

13 Schedule I, II or III is guilty of a felony and, upon

14 conviction, may be imprisoned in the state correctional

15 facility for not less than one year nor more than five years,

16 or fined not more than fifteen thousand dollars, or both;

17 (iii) A substance classified in Schedule IV is guilty of

18 a felony and, upon conviction, may be imprisoned in the

19 state correctional facility for not less than one year nor

20 more than three years, or fined not more than ten thousand

21 dollars, or both;

22 (iv) A substance classified in Schedule V is guilty of
23 a misdemeanor and, upon conviction, may be confined in
24 jail for not less than six months nor more than one year, or
25 fined not more than five thousand dollars, or both:
26 *Provided*, That for offenses relating to any substance
27 classified as Schedule V in article ten of this chapter, the
28 penalties established in said article apply.

29 (b) Except as authorized by this act, it is unlawful for
30 any person to create, deliver, or possess with intent to
31 deliver, a counterfeit substance.

32 Any person who violates this subsection with respect
33 to:

34 (i) A counterfeit substance classified in Schedule I or
35 II, which is a narcotic drug, is guilty of a felony and, upon
36 conviction, may be imprisoned in the state correctional
37 facility for not less than one year nor more than fifteen
38 years, or fined not more than twenty-five thousand dollars,
39 or both;

40 (ii) Any other counterfeit substance classified in
41 Schedule I, II or III is guilty of a felony and, upon
42 conviction, may be imprisoned in the state correctional
43 facility for not less than one year nor more than five years,
44 or fined not more than fifteen thousand dollars, or both;

45 (iii) A counterfeit substance classified in Schedule IV
46 is guilty of a felony and, upon conviction, may be
47 imprisoned in the state correctional facility for not less
48 than one year nor more than three years, or fined not more
49 than ten thousand dollars, or both;

50 (iv) A counterfeit substance classified in Schedule V
51 is guilty of a misdemeanor and, upon conviction, may be
52 confined in jail for not less than six months nor more than
53 one year, or fined not more than five thousand dollars, or
54 both: *Provided*, That for offenses relating to any
55 substance classified as Schedule V in article ten of this
56 chapter, the penalties established in said article apply.

57 (c) It is unlawful for any person knowingly or
58 intentionally to possess a controlled substance unless the
59 substance was obtained directly from, or pursuant to, a
60 valid prescription or order of a practitioner while acting in
61 the course of his professional practice, or except as
62 otherwise authorized by this act. Any person who violates
63 this subsection is guilty of a misdemeanor, and disposition
64 may be made under section four hundred seven of this
65 article, subject to the limitations specified in said section,
66 or upon conviction, such person may be confined in jail
67 not less than ninety days nor more than six months, or
68 fined not more than one thousand dollars, or both:
69 *Provided*, That notwithstanding any other provision of this
70 act to the contrary, any first offense for possession of
71 Synthetic Cannabinoids as defined by subdivision (32)
72 subsection, (d), section 101, article 1 of this chapter; 3,4-
73 methylenedioxypropylone (MPVD) and 3,4-
74 methylenedioxypropylone and/or mephedrone as

75 defined in subsection (f), section 101, article 1 of this
76 chapter; or less than 15 grams of marijuana, shall be
77 disposed of under said section.

78 (d) It is unlawful for any person knowingly or
79 intentionally:

80 (1) To create, distribute or deliver, or possess with
81 intent to distribute or deliver, an imitation controlled
82 substance; or

83 (2) To create, possess or sell or otherwise transfer any
84 equipment with the intent that such equipment shall be
85 used to apply a trademark, trade name, or other identifying
86 mark, imprint, number or device, or any likeness thereof,
87 upon a counterfeit substance, an imitation controlled
88 substance, or the container or label of a counterfeit
89 substance or an imitation controlled substance.

90 (3) Any person who violates this subsection is guilty
91 of a misdemeanor and, upon conviction, may be
92 imprisoned in jail for not less than six months nor more

93 than one year, or fined not more than five thousand
94 dollars, or both. Any person being eighteen years old or
95 more who violates subdivision (1) of this subsection and,
96 in so doing, distributes or delivers an imitation controlled
97 substance to a minor child who is at least three years
98 younger than such person is guilty of a felony and, upon
99 conviction, may be imprisoned in the state correctional
100 facility for not less than one year nor more than three
101 years, or fined not more than ten thousand dollars, or both.

102 (4) The provisions of subdivision (1) of this subsection
103 shall not apply to a practitioner who administers or
104 dispenses a placebo.