

# **WEST VIRGINIA LEGISLATURE**

**FIRST REGULAR SESSION, 2011**



# **ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR**

**House Bill No. 2505**

(By Delegates Perdue, Boggs, Hatfield, Cann, Rodighiero,  
Moye, Poore, Border, C. Miller, Hamilton and Lawrence)



Passed March 12, 2011

In Effect Thirty Days From Passage

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## H. B. 2505

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AN ACT to amend and reenact §60A-1-101 the Code of West Virginia, 1931, as amended, to amend and reenact §60A-2-204 of said code, and to amend and reenact §60A-4-401 of said code, all relating to adding certain cannabinoids, hallucinogens and stimulants to the Schedule I list of controlled substances; proving penalties; 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 authorized  
7 agent); or

8 (2) The patient or research subject at the direction and in  
9 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 or  
12 dispenser. It does not include a common or contract carrier,  
13 public warehouseman or employee of the carrier or  
14 warehouseman.

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

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

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

23 (f) “Counterfeit substance” means a controlled substance  
24 which, or the container or labeling of which, without

25 authorization, bears the trademark, trade name or other  
26 identifying mark, imprint, number or device, or any likeness  
27 thereof, of a manufacturer, distributor or dispenser other than  
28 the person who in fact manufactured, distributed or dispensed  
29 the substance.

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

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

44 (i) “Dispense” means to deliver a controlled substance to  
45 an ultimate user or research subject by or pursuant to the  
46 lawful order of a practitioner, including the prescribing,  
47 administering, packaging, labeling or compounding  
48 necessary to prepare the substance for that delivery.

49 (j) “Dispenser” means a practitioner who dispenses.

50 (k) “Distribute” means to deliver, other than by  
51 administering or dispensing, a controlled substance, a  
52 counterfeit substance or an imitation controlled substance.

53 (l) “Distributor” means a person who distributes.

54 (m) “Drug” means: (1) Substances recognized as drugs  
55 in the official “United States Pharmacopoeia, official  
56 Homeopathic Pharmacopoeia of the United States or official  
57 National Formulary”, or any supplement to any of them; (2)  
58 substances intended for use in the diagnosis, cure, mitigation,  
59 treatment or prevention of disease in man or animals; (3)  
60 substances (other than food) intended to affect the structure  
61 or any function of the body of man or animals; and (4)  
62 substances intended for use as a component of any article  
63 specified in clause (1), (2) or (3) of this subdivision. It does  
64 not include devices or their components, parts or accessories.

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

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

81 (p) “Manufacture” means the production, preparation,  
82 propagation, compounding, conversion or processing of a  
83 controlled substance, either directly or indirectly or by  
84 extraction from substances of natural origin, or independently  
85 by means of chemical synthesis, or by a combination of  
86 extraction and chemical synthesis, and includes any

87 packaging or repackaging of the substance or labeling or  
88 relabeling of its container, except that this term does not  
89 include the preparation, compounding, packaging or labeling  
90 of a controlled substance:

91 (1) By a practitioner as an incident to his administering  
92 or dispensing of a controlled substance in the course of his  
93 professional practice; or

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

97 (q) "Marijuana" means all parts of the plant "Cannabis  
98 sativa L.", whether growing or not; the seeds thereof; the  
99 resin extracted from any part of the plant; and every  
100 compound, manufacture, salt, immediate derivative, mixture  
101 or preparation of the plant, its seeds or resin. It does not  
102 include the mature stalks of the plant, fiber produced from  
103 the stalks, oil or cake made from the seeds of the plant, any  
104 other compound, manufacture, salt, immediate derivative,  
105 mixture or preparation of the mature stalks (except the resin  
106 extracted therefrom), fiber, oil or cake, or the sterilized seed  
107 of the plant which is incapable of germination.

108 (r) "Narcotic drug" means any of the following, whether  
109 produced directly or indirectly by extraction from substances  
110 of vegetable origin or independently by means of chemical  
111 synthesis, or by a combination of extraction and chemical  
112 synthesis:

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

115 (2) Any salt, compound, isomer, immediate derivative or  
116 preparation thereof which is chemically equivalent or

117 identical with any of the substances referred to in paragraph  
118 (1) of this subdivision, but not including the isoquinoline  
119 alkaloids of opium.

120 (3) Opium poppy and poppy straw.

121 (4) Coca leaves and any salt, compound, immediate  
122 derivative or preparation of coca leaves and any salt,  
123 compound, isomer, immediate derivative or preparation  
124 thereof which is chemically equivalent or identical with any  
125 of these substances, but not including decocainized coca  
126 leaves or extractions of coca leaves which do not contain  
127 cocaine or ecgonine.

128 (s) "Opiate" means any substance having an addiction-  
129 forming or addiction-sustaining liability similar to morphine  
130 or being capable of conversion into a drug having addiction-  
131 forming or addiction-sustaining liability. It does not include,  
132 unless specifically designated as controlled under section two  
133 hundred one, article two of this chapter, the dextrorotatory  
134 isomer of 3-methoxy-n-methylmorphinan and its salts  
135 (dextromethorphan). It does not include its racemic and  
136 levorotatory forms.

137 (t) "Opium poppy" means the plant of the species  
138 "Papaver somniferum L.", except its seeds.

139 (u) "Person" means individual, corporation, government  
140 or governmental subdivision or agency, business trust, estate,  
141 trust, partnership or association, or any other legal entity.

142 (v) "Placebo" means an inert medicament or preparation  
143 administered or dispensed for its psychological effect, to  
144 satisfy a patient or research subject or to act as a control in  
145 experimental series.

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

148 (x) “Practitioner” means:

149 (1) A physician, dentist, veterinarian, scientific  
150 investigator or other person licensed, registered or otherwise  
151 permitted to distribute, dispense, conduct research with  
152 respect to, or to administer a controlled substance in the  
153 course of professional practice or research in this state.

154 (2) A pharmacy, hospital or other institution licensed,  
155 registered or otherwise permitted to distribute, dispense,  
156 conduct research with respect to, or to administer a controlled  
157 substance in the course of professional practice or research in  
158 this state.

159 (y) “Production” includes the manufacture, planting,  
160 cultivation, growing or harvesting of a controlled substance.

161 (z) “State”, when applied to a part of the United States,  
162 includes any state, district, commonwealth, territory, insular  
163 possession thereof and any area subject to the legal authority  
164 of the United States of America.

165 (aa) “Ultimate user” means a person who lawfully  
166 possesses a controlled substance for his own use or for the  
167 use of a member of his household or for administering to an  
168 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 listed  
6 in another schedule, any of the following opiates, including  
7 their isomers, esters, ethers, salts and salts of isomers, esters  
8 and ethers, whenever the existence of such isomers, esters,  
9 ethers and salts is possible within the specific chemical  
10 designation (for purposes of subdivision (34) of this  
11 subsection only, the term isomer includes the optical and  
12 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-piperidinyl]-N-phenylpropanamide);

27 (9) Benzethidine;

28 (10) Betacetylmethadol;

29 (11) Beta-hydroxyfentanyl(N-[1-(2-hydroxy-2-  
30 phenethyl)-4- piperidinyl]-N-phenylpropanamide);

31 (12) Beta-hydroxy-3-methylfentanyl (other name:  
32 N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]  
33 -N-phenylpropanamide);

34 (13) Betameprodine;

35 (14) Betamethadol;

36 (15) Betaprodine;

37 (16) Clonitazene;

38 (17) Dextromoramide;

39 (18) Diampromide;

40 (19) Diethylthiambutene;

41 (20) Difenoxyin;

42 (21) Dimenoxadol;

43 (22) Dimepheptanol;

44 (23) Dimethylthiambutene;

45 (24) Dioxaphetyl butyrate;

46 (25) Dipipanone;

47 (26) Ethylmethylthiambutene;

48 (27) Etonitazene;

49 (28) Etoxadine;

- 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- piperidinyl]-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-piperidinyl] propanamide);
- 67 (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-  
68 acetoxypiperidine);
- 69 (44) Phenadoxone;

70 (45) Phenampromide;

71 (46) Phenomorphan;

72 (47) Phenoperidine;

73 (48) Piritramide;

74 (49) Proheptazine;

75 (50) Properidine;

76 (51) Propiram;

77 (52) Racemoramide;

78 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-  
79 piperidiny]-propanamide);

80 (54) Tilidine;

81 (55) Trimeperidine.

82 (c) Opium derivatives. -- Unless specifically excepted or  
83 unless listed in another schedule, any of the following opium  
84 immediate derivatives, its salts, isomers and salts of isomers  
85 whenever the existence of such salts, isomers and salts of  
86 isomers is possible within the specific chemical 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) Hydromorphenol;
- 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 which  
114 contains any of its salts, isomers and salts of isomers,  
115 whenever the existence of such salts, isomers, and salts of  
116 isomers is possible within the specific chemical designation  
117 (for purposes of this subsection only, the term "isomer"  
118 includes the optical, position and geometric isomers):

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

122 (2) 4-bromo-2,5-dimethoxy-amphetamine; some trade or  
123 other names: 4-bromo-2,5-dimethoxy-alpha-  
124 methylphenethylamine; 4-bromo-2,5-DMA;

125 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade  
126 or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-  
127 aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

128 (4) 2,5-dimethoxyamphetamine; some trade or other  
129 names: 2,5-dimethoxy-alpha-methylphenethylamine;  
130 2,5-DMA;

131 (5) 2,5-dimethoxy-4-ethylamphet-amine; some trade or  
132 other names: DOET;

133 (6) 4-methoxyamphetamine; some trade or other names:  
134 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 ;  
135 paramethoxyamphetamine; PMA;

136 (7) 5-methoxy-3,4-methylenedioxy-amphetamine;

137 (8) 4-methyl-2,5-dimethoxy-amphetamine; some trade  
138 and other names: 4-methyl-2,5-dimethoxy-alpha-  
139 methylphenethylamine; "DOM"; and "STP";

140 (9) 3,4-methylenedioxy amphetamine;

141 (10) 3,4-methylenedioxymethamphetamine (MDMA);

142 (11) 3,4-methylenedioxy-N-ethylamphetamine (also  
143 known as N- ethyl-alpha-methyl-3,4 (methylenedioxy)  
144 phenethylamine, N-ethyl MDA, MDE, MDEA);

145 (12) N-hydroxy-3,4-methylenedioxyamphetamine (also  
146 known as N- hydroxy-alpha-methyl-3,4 (methylenedioxy)  
147 phenethylamine, and N- hydroxy MDA);

148 (13) 3,4,5-trimethoxy amphetamine;

149 (14) Bufotenine; some trade and other names: 3-  
150 (beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethyl  
151 aminoethyl) -5-indolol; N, N-dimethylserotonin;  
152 5-hydroxy-N,N- dimethyltryptamine; mappine;

153 (15) Diethyltryptamine; some trade and other names:  
154 N, N-Diethyltryptamine; DET;

155 (16) Dimethyltryptamine; some trade or other names:  
156 DMT;

157 (17) Ibogaine; some trade and other names: 7-Ethyl-6,  
158 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,  
159 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole;  
160 Tabernanthe iboga;

161 (18) Lysergic acid diethylamide;

162 (19) Marijuana;

163 (20) Mescaline;

164 (21) Parahexyl-7374; some trade or other names:  
165 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-  
166 6H-dibenzo [b,d] pyran; Synhexyl;

167 (22) Peyote; meaning all parts of the plant presently  
168 classified botanically as *Lophophora williamsii* Lemaire,  
169 whether growing or not, the seeds thereof, any extract from  
170 any part of such plant, and every compound, manufacture,  
171 salts, immediate derivative, mixture or preparation of such  
172 plant, its seeds or extracts;

173 (23) N-ethyl-3-piperidyl benzilate;

174 (24) N-methyl-3-piperidyl benzilate;

175 (25) Psilocybin;

176 (26) Psilocyn;

177 (27) Tetrahydrocannabinols; synthetic equivalents of the  
178 substances contained in the plant, or in the resinous  
179 extractives of *Cannabis*, sp. and/or synthetic substances,  
180 immediate derivatives and their isomers with similar  
181 chemical structure and pharmacological activity such as the  
182 following:

183 delta-1 Cis or trans tetrahydrocannabinol, and their  
184 optical isomers;

185 delta-6 Cis or trans tetrahydrocannabinol, and their  
186 optical isomers;

187 delta-3,4 Cis or trans tetrahydrocannabinol, and its  
188 optical isomers;

189 (Since nomenclature of these substances is not  
190 internationally standardized, compounds of these structures,  
191 regardless of numerical designation of atomic positions  
192 covered.)

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

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

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

203 (31) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other  
204 names: TCPy.

205 (32) Synthetic Cannabinoids as follows:

206 (a) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-  
207 2-yl)phenol {also known as CP 47,497 and homologues};

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

211 (c) [(6aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-  
212 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-  
213 1-ol] {also known as HU-210};

- 214 (d) (dexanabinol, (6a*S*,10a*S*)-9-(hydroxymethyl)-6,6-  
215 dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-  
216 tetrahydrobenzol[*c*]chromen-1-ol) {also known as HU-211};
- 217 (e) 1-Pentyl-3-(1-naphthoyl)indole {also known as JWH-  
218 018};
- 219 (f) 1-Butyl-3-(1-naphthoyl)indole {also known as JWH-  
220 073};
- 221 (g) (2-methyl-1-propyl-1H-indol-3-yl)-1naphthalenyl-  
222 methanone {also known as JWH-015};
- 223 (h) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone  
224 {also known as JWH-019};
- 225 (i) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-  
226 naphthalenyl-methanone {also known as JWH-200};
- 227 (j) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-  
228 ethanone {also known as JWH-250};
- 229 (k) 2-((1*S*,2*S*,5*S*)-5-hydroxy-2-(3-hydroxypropyl)  
230 cyclohexyl)-5-(2-methyloctan-2-yl)phenol {also known as  
231 CP 55,940};
- 232 (l) (4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-  
233 methanone {also known as JWH-122};
- 234 (m) (4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-  
235 methanone {also known as JWH-398};
- 236 (n) (4-methoxyphenyl)(1-pentyl-1H-indol-3-  
237 yl)methanone {also known as RCS-4};
- 238 (o) 1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-  
239 methoxyphenyl)ethanone {also known as RCS-8}; and

240 (Since nomenclature of these substances is not  
241 internationally standardized, any immediate precursor or  
242 immediate derivative of these substances shall be covered).

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

250 (1) Mecloqualone;

251 (2) Methaqualone.

252 (f) Stimulants. Unless specifically excepted or unless  
253 listed in another schedule, any material, compound, mixture,  
254 or preparation which contains any quantity of the following  
255 substances having a stimulant effect on the central nervous  
256 system, including its salts, isomers, and salts of isomers:

257 (1) Aminorex; some other names: aminoxaphen;  
258 2-amino-5- phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-  
259 2-oxazolamine;

260 (2) Cathinone; some trade or other names:  
261 2-amino-1-phenyl-1- propanone, alpha-aminopropiophenone,  
262 2-aminopropiophenone, and norephedrone;

263 (3) Fenethylamine;

264 (4) Methcathinone, its immediate precursors and  
265 immediate derivatives, its salts, optical isomers and salts of  
266 optical isomers; some other names: (2-(methylamino)-  
267 propiophenone; alpha-(methylamino) propiophenone;

268 2-(methylamino)-1-phenylpropan-1-one; alpha--  
269 methylaminopropiophenone; monomethylpropion; 3,4-  
270 methylenedioxypropylvalerone and/or mephedrone; 3,4-  
271 methylenedioxypropylvalerone (MPVD); ephedrone; -  
272 methylcathinone; methylcathinone; AL-464; AL-422; AL-  
273 463 and UR1432;

274 (5) (+-) cis-4-methylaminorex; (+-)cis-4,5-dihydro-4-  
275 methyl- 5-phenyl-2-oxazolamine);

276 (6) N-ethylamphetamine;

277 (7) N,N-dimethylamphetamine; also known as  
278 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-  
279 trimethylphenethylamine.

280 (g) Temporary listing of substances subject to emergency  
281 scheduling. Any material, compound, mixture or preparation  
282 which contains any quantity of the following substances:

283 (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide  
284 (benzylfentanyl), its optical isomers, salts, and salts of  
285 isomers.

286  
287 (2)N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanam  
288 ide (thenylfentanyl), its optical isomers, salts and salts of  
289 isomers.

290 (8) N-benzylpiperazine, also known as BZP.

#### **ARTICLE 4. OFFENSES AND PENALTIES.**

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

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

3 manufacture or deliver, a controlled substance.

4 Any person who violates this subsection with respect to:

5 (i) A controlled substance classified in Schedule I or II,  
6 which is a narcotic drug, is guilty of a felony and, upon  
7 conviction, may be imprisoned in the state correctional  
8 facility for not less than one year nor more than fifteen years,  
9 or fined not more than twenty-five thousand dollars, or both;

10 (ii) Any other controlled substance classified in Schedule  
11 I, II or III is guilty of a felony and, upon conviction, may be  
12 imprisoned in the state correctional facility for not less than  
13 one year nor more than five years, or fined not more than  
14 fifteen thousand dollars, or both;

15 (iii) A substance classified in Schedule IV is guilty of a  
16 felony and, upon conviction, may be imprisoned in the state  
17 correctional facility for not less than one year nor more than  
18 three years, or fined not more than ten thousand dollars, or  
19 both;

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

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

30 Any person who violates this subsection with respect to:

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

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

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

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

53 (c) It is unlawful for any person knowingly or  
54 intentionally to possess a controlled substance unless the  
55 substance was obtained directly from, or pursuant to, a valid  
56 prescription or order of a practitioner while acting in the  
57 course of his professional practice, or except as otherwise  
58 authorized by this act. Any person who violates this  
59 subsection is guilty of a misdemeanor, and disposition may  
60 be made under section four hundred seven of this article,  
61 subject to the limitations specified in said section, or upon  
62 conviction, such person may be confined in jail not less than

63 ninety days nor more than six months, or fined not more than  
64 one thousand dollars, or both: *Provided*, That  
65 notwithstanding any other provision of this act to the  
66 contrary, any first offense for possession of Synthetic  
67 Cannabinoids as defined by subdivision (32) subsection, (d),  
68 section 101, article 1 of this chapter; 3,4-  
69 methylenedioxypropylone (MPVD) and 3,4-  
70 methylenedioxypropylone and/or mephedrone as defined  
71 in subsection (f), section 101, article 1 of this chapter; or less  
72 than 15 grams of marijuana, shall be disposed of under said  
73 section.

74 (d) It is unlawful for any person knowingly or  
75 intentionally:

76 (1) To create, distribute or deliver, or possess with intent  
77 to distribute or deliver, an imitation controlled substance; or

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

85 (3) Any person who violates this subsection is guilty of  
86 a misdemeanor and, upon conviction, may be imprisoned in  
87 jail for not less than six months nor more than one year, or  
88 fined not more than five thousand dollars, or both. Any  
89 person being eighteen years old or more who violates  
90 subdivision (1) of this subsection and, in so doing, distributes  
91 or delivers an imitation controlled substance to a minor child  
92 who is at least three years younger than such person is guilty  
93 of a felony and, upon conviction, may be imprisoned in the  
94 state correctional facility for not less than one year nor more

95 than three years, or fined not more than ten thousand dollars,  
96 or both.

97 (4) The provisions of subdivision (1) of this subsection  
98 shall not apply to a practitioner who administers or dispenses  
99 a placebo.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect thirty days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2011.

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*Governor*