

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 593

BY SENATOR OJEDA

[Introduced February 19, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §60A-2-204 of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §60A-4-401 of said code; and to amend said code by adding thereto
 3 a new section, designated §60A-4-417, all relating to reducing the criminal penalties and
 4 the criminalization of marijuana; removing certain items from Schedule I controlled
 5 substances list; and creating new misdemeanor and felony offenses and penalties with
 6 respect to marijuana.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-204. Schedule I.

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

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

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

10 (2) Acetylmethadol;

11 (3) Allylprodine;

12 (4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol,
 13 levomethadyl acetate, or LAAM);

14 (5) Alphameprodine;

15 (6) Alphamethadol;

16 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl]
 17 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(propanilido) piperidine);

- 18 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl- 4-piperidinyl]-phenylpropanamide);
- 19 (9) Benzethidine;
- 20 (10) Betacetylmethadol;
- 21 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4- piperidinyl]-N-phenylpropanamide);
- 22 (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-
- 23 4-piperidinyl]-N-phenylpropanamide);
- 24 (13) Betameprodine;
- 25 (14) Betamethadol;
- 26 (15) Betaprodine;
- 27 (16) Clonitazene;
- 28 (17) Dextromoramide;
- 29 (18) Diampromide;
- 30 (19) Diethylthiambutene;
- 31 (20) Difenoxin;
- 32 (21) Dimenoxadol;
- 33 (22) Dimepheptanol;
- 34 (23) Dimethylthiambutene;
- 35 (24) Dioxaphetyl butyrate;
- 36 (25) Dipipanone;
- 37 (26) Ethylmethylthiambutene;
- 38 (27) Etonitazene;
- 39 (28) Etoxidine;
- 40 (29) Fentanyl analog or derivative, as that term is defined in article one of this chapter:
- 41 *Provided*, That fentanyl and carfentanil remains a Schedule II substance, as set forth in §60A-2-
- 42 206 of this code;
- 43 (30) Furethidine;

- 44 (31) Hydroxypethidine;
- 45 (32) Ketobemidone;
- 46 (33) Levomoramide;
- 47 (34) Levophenacymorphan;
- 48 (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4- piperidyl]-N-phenylpropanamide);
- 49 (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4- piperidiny]--phenylpropanamide);
- 50 (37) Morpheridine;
- 51 (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 52 (39) Noracymethadol;
- 53 (40) Norlevorphanol;
- 54 (41) Normethadone;
- 55 (42) Norpipanone;
- 56 (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2- phenethyl)-4-piperidiny] propanamide);
- 57 (44) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 58 (45) Phenadoxone;
- 59 (46) Phenampromide;
- 60 (47) Phenomorphan;
- 61 (48) Phenoperidine;
- 62 (49) Piritramide;
- 63 (50) Proheptazine;
- 64 (51) Properidine;
- 65 (52) Propiram;
- 66 (53) Racemoramide;
- 67 (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4- piperidiny]-propanamide);
- 68 (55) Tilidine;
- 69 (56) Trimeperidine.

70 (c) *Opium derivatives*. -- Unless specifically excepted or unless listed in another schedule,
71 any of the following opium immediate derivatives, its salts, isomers and salts of isomers whenever
72 the existence of such salts, isomers and salts of isomers is possible within the specific chemical
73 designation:

- 74 (1) Acetorphine;
- 75 (2) Acetyldihydrocodeine;
- 76 (3) Benzylmorphine;
- 77 (4) Codeine methylbromide;
- 78 (5) Codeine-N-Oxide;
- 79 (6) Cyprenorphine;
- 80 (7) Desomorphine;
- 81 (8) Dihydromorphine;
- 82 (9) Drotebanol;
- 83 (10) Etorphine (except HCl Salt);
- 84 (11) Heroin;
- 85 (12) Hydromorphinol;
- 86 (13) Methyldesorphine;
- 87 (14) Methyldihydromorphine;
- 88 (15) Morphine methylbromide;
- 89 (16) Morphine methylsulfonate;
- 90 (17) Morphine-N-Oxide;
- 91 (18) Myrophine;
- 92 (19) Nicocodeine;
- 93 (20) Nicomorphine;
- 94 (21) Normorphine;
- 95 (22) Pholcodine;

96 (23) Thebacon.

97 (d) *Hallucinogenic substances*. -- Unless specifically excepted or unless listed in another
98 schedule, any material, compound, mixture or preparation, which contains any quantity of the
99 following hallucinogenic substances, or which contains any of its salts, isomers and salts of
100 isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within
101 the specific chemical designation (for purposes of this subsection only, the term "isomer" includes
102 the optical, position and geometric isomers):

103 (1) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-
104 1H-indole-3-ethanamine; 3-(2- aminobutyl) indole; alpha-ET; and AET;

105 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-
106 dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

107 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-
108 dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

109 (4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has
110 the acronym 25B-NBOMe.

111 (B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).

112 (C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)

113 (5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-
114 methylphenethylamine; 2,5-DMA;

115 (6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

116 (7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

117 (8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-
118 methylphenethylamine; paramethoxyamphetamine; PMA;

119 (9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

120 (10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-
121 dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

- 122 (11) 3,4-methylenedioxy amphetamine;
- 123 (12) 3,4-methylenedioxymethamphetamine (MDMA);
- 124 (13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4
- 125 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);
- 126 (14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-
- 127 3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);
- 128 (15) 3,4,5-trimethoxy amphetamine;
- 129 ~~(15)~~ (16) 5-methoxy-N, N-dimethyltryptamine (5-MeO-DMT);
- 130 (17) Alpha-methyltryptamine (other name: AMT);
- 131 (18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-
- 132 hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-
- 133 dimethyltryptamine; mappine;
- 134 (19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;
- 135 (20) Dimethyltryptamine; some trade or other names: DMT;
- 136 (21) 5-Methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT);
- 137 (22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-
- 138 octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe
- 139 iboga;
- 140 (23) Lysergic acid diethylamide;
- 141 ~~(24)~~ Marijuana;
- 142 ~~(25)~~ (24) Mescaline;
- 143 ~~(26)~~ (25) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-
- 144 tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;
- 145 ~~(27)~~ (26) Peyote; meaning all parts of the plant presently classified botanically as
- 146 Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any
- 147 part of such plant, and every compound, manufacture, salts, immediate derivative, mixture or

- 148 preparation of such plant, its seeds or extracts;
- 149 ~~(28)~~ (27) N-ethyl-3-piperidyl benzilate;
- 150 ~~(29)~~ (28) N-methyl-3-piperidyl benzilate;
- 151 ~~(30)~~ (29) Psilocybin;
- 152 ~~(31)~~ (30) Psilocyn;
- 153 ~~(32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the~~
- 154 ~~plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, immediate~~
- 155 ~~derivatives and their isomers with similar chemical structure and pharmacological activity such as~~
- 156 ~~the following:~~
- 157 ~~delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;~~
- 158 ~~delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;~~
- 159 ~~delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;~~
- 160 ~~(Since nomenclature of these substances is not internationally standardized, compounds~~
- 161 ~~of these structures, regardless of numerical designation of atomic positions covered)~~
- 162 ~~(33)~~ (31) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-
- 163 phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
- 164 cyclohexamine, PCE;
- 165 ~~(34)~~ (32) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-
- 166 phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
- 167 ~~(35)~~ (33) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-
- 168 cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP, TCP;
- 169 ~~(36)~~ (34) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.
- 170 ~~(37)~~ (35) 4-methylmethcathinone (Mephedrone);
- 171 ~~(38)~~ (36) 3,4-methylenedioxypropylamphetamine (MDPV);
- 172 ~~(39)~~ (37) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- 173 ~~(40)~~ (38) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

- 174 ~~(41)~~ (39) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)
- 175 ~~(42)~~ (40) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)
- 176 ~~(43)~~ (41) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)
- 177 ~~(44)~~ (42) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)
- 178 ~~(45)~~ (43) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)
- 179 ~~(46)~~ (44) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)
- 180 ~~(47)~~ (45) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)
- 181 ~~(48)~~ (46) 3,4-Methylenedioxy-N-methylcathinone (Methylone)
- 182 ~~(49)~~ (47) (2,5-dimethoxy-4-(n)-propyltghiophenethylamine (2C-T-7, its optical isomers,
- 183 salts and salts of isomers
- 184 ~~(50)~~ (48) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-
- 185 [2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)
- 186 ~~(54)~~ (49) Alpha-methyltryptamine (other name: AMT)
- 187 ~~(52)~~ (50) 5-methoxy-N, N-diisopropyltryptamine (other name: 5-MeO-DIPT)
- 188 ~~(53)~~ (51) Synthetic Cannabinoids as follows:
- 189 (A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP
- 190 47,497 and homologues};
- 191 (B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as
- 192 CP 47,497-C8 homolog};
- 193 (C) [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-
- 194 tetrahydrobenzo[c]chromen-1-ol] {also known as HU-210};
- 195 (D) (dexanabinol);
- 196 (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-
- 197 tetrahydrobenzo
- 198 [c]chromen-1-ol) {also known as HU-211};
- 199 (E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};

- 200 (F) 1-Butyl-3-(1-naphthoyl) indole {also known as JWH-073};
- 201 (G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-
202 015};
- 203 (H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};
- 204 (I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as
205 JWH-200};
- 206 (J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};
- 207 (K) 2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl)-5-(2-methyloctan-2-
208 yl)phenol {also known as CP 55,940};
- 209 (L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-
210 122};
- 211 (M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-
212 398};
- 213 (N) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};
- 214 (O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known
215 as RCS-8};
- 216 (P) 1-pentyl-3-[1-(4-methoxynaphthoyl) indole (JWH-081);
- 217 (Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and
- 218 (R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).
- 219 ~~(54)~~ (52) Synthetic cannabinoids or any material, compound, mixture or preparation which
220 contains any quantity of the following substances, including their analogues, congeners,
221 homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as
222 follows:
- 223 (A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-
224 YL) phenol);
- 225 (B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-

- 226 6A,7,10, 10A-tetrahydrobenzo[C] chromen-1-OL)];
- 227 (C) HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-
- 228 methyloctan-2-YL)-6A,7,10,10atetrahydrobenzo [C] chromen-1-OL);
- 229 (D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;
- 230 (E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;
- 231 (F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;
- 232 (G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)- Naphthalen-1-ylmethanone;
- 233 (H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.
- 234 ~~(55)~~ (53) Synthetic cannabinoids including any material, compound, mixture or preparation
- 235 that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug
- 236 Administration approved drug or used within legitimate and approved medical research and which
- 237 contains any quantity of the following substances, their salts, isomers, whether optical positional
- 238 or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless
- 239 specifically exempted, whenever the existence of these salts, isomers, analogues, homologues
- 240 and salts of isomers, analogues and homologues if possible within the specific chemical
- 241 designation:
- 242 (A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained
- 243 in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in
- 244 the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their
- 245 isomers with analogous chemical structure and or pharmacological activity such as the following:
- 246 (i) DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.
- 247 (ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their Optical isomers.
- 248 (iii) DELTA-3,4 CIS OR their trans tetrahydrocannabinol and their optical isomers.
- 249 (B) Naphthoyl indoles or any compound containing a 3-(-1- Naphthoyl) indole structure with
- 250 substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole
- 251 ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall

252 include the following:

253 (i) JWH 015;

254 (ii) JWH 018;

255 (iii) JWH 019;

256 (iv) JWH 073;

257 (v) JWH 081;

258 (vi) JWH 122;

259 (vii) JWH 200;

260 (viii) JWH 210;

261 (ix) JWH 398;

262 (x) AM 2201;

263 (xi) WIN 55,212.

264 ~~(56)~~ (54) Synthetic Phenethylamines (including their optical, positional, and geometric
265 isomers, salts and salts of isomers, whenever the existence of such salts, isomers, and salts of
266 isomers):

267 (A) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-
268 NBOMe);

269 (B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-
270 C-NBOMe);

271 (C) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/
272 2C-B-NBOMe);

273 ~~(57)~~ (55) Synthetic Opioids (including their isomers, esters, ethers, salts and salts of
274 isomers, esters and ethers):

275 (A) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

276 (B) furanyl fentanyl;

277 (C) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-

278 47700);

279 (D) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-
280 phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl);

281 (E) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also
282 known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidiny]-N-phenylpropanamide, (beta-
283 hydroxythiofentanyl).

284 ~~(58)~~ (56) Opioid Receptor Agonist (including its isomers, esters, ethers, salts, and salts of
285 isomers, esters and ethers):

286 (A) AH-7921 (3,4-dichloro-N-(1-dimethylamino)cyclohexylmethyl]benzamide).

287 ~~(59)~~ (57) Naphylmethylindoles or any compound containing a 1-hindol-3-yl-(1-naphthyl)
288 methane structure with a substitution at the nitrogen atom of the indole ring whether or not further
289 substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to
290 any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

291 ~~(60)~~ (58) Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole
292 structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted
293 in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent.
294 This shall include, but not be limited to, JWH 147 and JWH 307.

295 ~~(64)~~ (59) Naphthylmethylindenes or any compound containing a Naphthylideneindene
296 structure with substitution at the 3- Position of the indene ring whether or not further substituted
297 in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.
298 This shall include, but not be limited to, JWH 176.

299 ~~(62)~~ (60) Phenylacetylindoles or any compound containing a 3- Phenylacetylindole
300 structure with substitution at the nitrogen atom of the indole ring whether or not further substituted
301 in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.
302 This shall include the following:

303 (A) RCS-8, SR-18 OR BTM-8;

304 (B) JWH 250;

305 (C) JWH 203;

306 (D) JWH 251;

307 (E) JWH 302.

308 ~~(63)~~ (61) Cyclohexylphenols or any compound containing a 2-(3- hydroxycyclohexyl)
309 phenol structure with a substitution at the 5-position of the phenolic ring whether or not substituted
310 in the cyclohexyl ring to any extent. This shall include the following:

311 (A) CP 47,497 and its homologues and analogs;

312 (B) Cannabicyclohexanol;

313 (C) CP 55,940.

314 ~~(64)~~ (62) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with
315 substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole
316 ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include
317 the following:

318 (A) AM 694;

319 (B) Pravadoline WIN 48,098;

320 (C) RCS 4;

321 (D) AM 679.

322 ~~(65)~~ (63) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-
323 benzoxazin-6-YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

324 ~~(66)~~ (64) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-
325 tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210,
326 HU-211, JWH 051 and JWH 133.

327 ~~(67)~~ (65) Adamantoylindoles or any compound containing a 3-(-1- Adamantoyl) indole
328 structure with substitution at the nitrogen atom of the indole ring whether or not further substituted
329 in the adamantoyl ring system to any extent. This shall include AM1248.

330 ~~(68)~~ (66) Tetramethylcyclopropylindoles or any compound containing A 3-
331 tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring
332 whether or not further substituted in the indole ring to any extent and whether or not substituted
333 in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

334 ~~(69)~~ (67) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

335 ~~(70)~~ (68) Any other synthetic chemical compound that is a Cannabinoid receptor type 1
336 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules
337 II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate,
338 approved medical research. Since nomenclature of these substances is not internationally
339 standardized, any immediate precursor or immediate derivative of these substances shall be
340 covered.

341 ~~(71)~~ (69) Tryptamines:

342 (A) 5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT)

343 (B) 4-hydroxy-N, N-diisopropyltryptamine (4-HO-DiPT)

344 (C) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)

345 (D) 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)

346 (E) 4-acetoxy-N, N-diisopropyltryptamine (4-AcO-DiPT)

347 (F) 5-methoxy- α -methyltryptamine (5-MeO-AMT)

348 (G) 4-methoxy-N, N-Dimethyltryptamine (4-MeO-DMT)

349 (H) 4-hydroxy Diethyltryptamine (4-HO-DET)

350 (I) 5- methoxy- N, N- diallyltryptamine (5-MeO-DALT)

351 (J) 4-acetoxy-N, N-Dimethyltryptamine (4-AcO DMT)

352 (K) 4-hydroxy Diethyltryptamine (4-HO-DET)

353 ~~(72)~~ (70) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-
354 carboxamide (AB-CHMINACA);

355 ~~(73)~~ (71) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide

356 (AB-PINACA);

357 ~~(74)~~ (72) [1-(5-fluoropentyl)-1H-indazol-3-yl (naphthalen-1-yl)methanone (THJ-2201);

358 ~~(75)~~ (73) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22; QUPIC);

359 ~~(76)~~ (74) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-
360 22);

361 ~~(77)~~ (75) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-
362 carboxamide (AB-FUBINACA);

363 ~~(78)~~ (76) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide
364 (ADB-PINACA); and

365 ~~(79)~~ (77) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-
366 carboxamide (common names, MAB-CHMINACA and ADB-CHMINACA);

367 (e) *Depressants*. -- Unless specifically excepted or unless listed in another schedule, any
368 material, compound, mixture, or preparation which contains any quantity of the following
369 substances having a depressant effect on the central nervous system, including its salts, isomers
370 and salts of isomers whenever the existence of such salts, isomers and salts of isomers is
371 possible within the specific chemical designation:

372 (1) Mecloqualone;

373 (2) Methaqualone.

374 (f) *Stimulants*. -- Unless specifically excepted or unless listed in another schedule, any
375 material, compound, mixture, or preparation which contains any quantity of the following
376 substances having a stimulant effect on the central nervous system, including its salts, isomers
377 and salts of isomers:

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

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

- 382 (3) Fenethylamine;
- 383 (4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical
384 isomers and salts of optical isomers; some other names: (2-(methylamino)-propionophenone; alpha-
385 (methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-
386 methylaminopropionophenone; monomethylpropion; 3,4-methylenedioxypropionophenone and/or
387 mephedrone; 3,4-methylenedioxypropionophenone (MPVD); ephedrone; N-methylcathinone;
388 methylcathinone; AL-464; AL-422; AL-463 and UR1432;
- 389 (5) (+-) cis-4-methylaminorex; ((-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 390 (6) N-ethylamphetamine;
- 391 (7) N,N-dimethylamphetamine; also known as N,N-alpha-trimethylbenzeneethanamine;
392 N,N-alpha-trimethylphenethylamine.
- 393 (8) Alpha-pyrrolidinopropionophenone, also known as alpha-PVP, optical isomers, salts and
394 salts of isomers.
- 395 (9) Substituted amphetamines:
- 396 (A) 2-Fluoroamphetamine
- 397 (B) 3-Fluoroamphetamine
- 398 (C) 4-Fluoroamphetamine
- 399 (D) 2-chloroamphetamine
- 400 (E) 3-chloroamphetamine
- 401 (F) 4-chloroamphetamine
- 402 (G) 2-Fluoromethamphetamine
- 403 (H) 3-Fluoromethamphetamine
- 404 (I) 4-Fluoromethamphetamine
- 405 (J) 4-chloromethamphetamine
- 406 (10) 4-methyl-N-ethylcathinone (4-MEC);
- 407 (11) 4-methyl-alpha-pyrrolidinopropionophenone (4-MePPP);

408 (12) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);

409 (13) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

410 (14) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);

411 (15) 4-fluoro-N-methylcathinone (4-FMC);

412 (16) 3-fluoro-N-methylcathinone (3-FMC);

413 (17) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and

414 (18) Alpha-pyrrolidinobutiophenone (α -PBP).

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

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

419 (2) N-[1-(2-thienyl) methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical
420 isomers, salts and salts of isomers.

421 (3) N-benzylpiperazine, also known as BZP.

422 (h) The following controlled substances are included in Schedule I:

423 (1) Synthetic Cathinones or any compound, except bupropion or compounds listed under
424 a different schedule, or compounds used within legitimate and approved medical research,
425 structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic
426 or fused polycyclic ring systems, whether or not the compound is further modified in any of the
427 following ways:

428 (A) By substitution in the ring system to any extent with Alkyl, alkylendioxy, alkoxy,
429 haloalkyl, hydroxyl or halide Substituents whether or not further substituted in the ring system by
430 one or more other univalent substituents.

431 (B) By substitution at the 3-Position with an acyclic alkyl substituent.

432 (C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or
433 methoxybenzyl groups.

434 (D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

435 (2) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist
436 as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV
437 and V, not federal Food and Drug Administration approved drug or used within legitimate,
438 approved medical research.

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 person to manufacture, deliver,
2 or possess with intent to manufacture or deliver, a controlled substance.

3 Any person who violates this subsection with respect to:

4 (i) A controlled substance classified in Schedule I or II, which is a narcotic drug, is guilty
5 of a felony and, upon conviction thereof, ~~may~~ shall be imprisoned in ~~the~~ a state correctional facility
6 for not less than one year nor more than 15 years, or fined not more than \$25,000, or both fined
7 and imprisoned;

8 (ii) Any other controlled substance classified in Schedule I, II or III is guilty of a felony and,
9 upon conviction thereof, ~~may~~ shall be imprisoned in ~~the~~ a state correctional facility for not less
10 than one year nor more than five years, or fined not more than \$15,000, or both fined and
11 imprisoned;

12 (iii) A substance classified in Schedule IV is guilty of a felony and, upon conviction thereof
13 ~~may~~ shall be imprisoned in ~~the~~ a state correctional facility for not less than one year nor more
14 than three years, or fined not more than \$10,000, or both fined and imprisoned;

15 (iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction
16 ~~thereof~~, ~~may~~ shall be confined in jail for not less than six months nor more than one year, or fined
17 not more than \$5,000, or both fined and confined: *Provided*, That for offenses relating to any
18 substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established
19 in ~~said~~ that article apply.

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

22 Any person who violates this subsection with respect to:

23 (i) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, is guilty
24 of a felony and, upon conviction ~~thereof, may shall~~ be imprisoned in ~~the a~~ state correctional facility
25 for not less than one year nor more than 15 years, or fined not more than \$25,000, or both fined
26 and imprisoned;

27 (ii) Any other counterfeit substance classified in Schedule I, II or III is guilty of a felony and,
28 upon conviction ~~thereof, may shall~~ be imprisoned in ~~the a~~ state correctional facility for not less
29 than one year nor more than five years, or fined not more than \$15,000, or both fined and
30 imprisoned;

31 (iii) A counterfeit substance classified in Schedule IV is guilty of a felony and, upon
32 conviction ~~thereof, may~~ be imprisoned in ~~the a~~ state correctional facility for not less than one year
33 nor more than three years, or fined not more than \$10,000, or both fined and imprisoned;

34 (iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon
35 conviction ~~thereof, may shall~~ be confined in jail for not less than six months nor more than one
36 year, or fined not more than \$5,000, or both fined and confined: *Provided*, That for offenses
37 relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties
38 established in ~~said that~~ article apply.

39 (c) It is unlawful for any person knowingly or intentionally to possess a controlled
40 substance unless the substance was obtained directly from, or pursuant to, a valid prescription or
41 order of a practitioner while acting in the course of his professional practice, or except as
42 otherwise authorized by this act. Any person who violates this subsection is guilty of a
43 misdemeanor and, disposition may be made under §60A-4-407 of this code, subject to the
44 limitations ~~specified in said section~~ therein, or upon conviction, such person may be confined in
45 jail not less than 90 days nor more than six months, or fined not more than \$1,000, or both fined

46 and confined. ~~Provided, That notwithstanding any other provision of this act to the contrary, any~~
47 ~~first offense for possession of Synthetic Cannabinoids as defined by subdivision (32) subsection,~~
48 ~~(d), section 101, article 1 of this chapter; 3,4-methylenedioxypropylvalerone (MPVD) and 3,4-~~
49 ~~methylenedioxypropylvalerone and/or mephedrone as defined in subsection (f), section 101, article~~
50 ~~1 of this chapter; or less than 15 grams of marijuana, shall be disposed of under said section~~

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

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

54 (2) To create, possess or sell or otherwise transfer any equipment with the intent that such
55 equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint,
56 number or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled
57 substance, or the container or label of a counterfeit substance or an imitation controlled
58 substance.

59 (3) Any person who violates this subsection is guilty of a misdemeanor and, upon
60 conviction thereof, ~~may~~ shall be ~~imprisoned~~ confined in jail for not less than six months nor more
61 than one year, or fined not more than \$5,000, or both fined and confined. Any person being 18
62 years old or more who violates subdivision (1) of this subsection and, in so doing, distributes or
63 delivers an imitation controlled substance to a minor child who is at least three years younger
64 than such person is guilty of a felony and, upon conviction thereof, may be imprisoned in ~~the a~~
65 state correctional facility for not less than one year nor more than three years, or fined not more
66 than \$10,000, or both fined and imprisoned.

67 (4) The provisions of subdivision (1) of this subsection ~~shall~~ may not apply to a practitioner
68 who administers or dispenses a placebo.

69 (e) Notwithstanding any provision of this code to the contrary, a person may be prosecuted
70 for the possession, manufacture, delivery, or possession with intent to manufacture or deliver
71 marijuana only pursuant to §60A-4-417 of this code.

§60A-4-417. Possession, manufacture, delivery, or possession with intent to manufacture or deliver marijuana.

1 (a) Notwithstanding any provision of this code to the contrary, it is lawful, and may not be
2 an offense under West Virginia law, for any person 21 years of age or older to:

3 (1) Possess or use marijuana weighing four ounces or less in a private residence;

4 (2) Transport marijuana weighing two ounces or less within this state to or from that
5 person's private residence;

6 (3) Transfer to another person 21 years of age or older, without remuneration, marijuana
7 weighing one ounce or less;

8 (4) Possess, grow, harvest or process, upon property that constitutes the person's
9 principal residence, no more than eight cannabis plants, with four or fewer being mature, flowering
10 plants: *Provided*, That all persons residing within a single house or single rental unit may not
11 possess, grow, harvest or process, in the aggregate, more than 16 cannabis plants, with eight or
12 fewer being mature, flowering plants: *Provided, however*, That persons may possess on the
13 property the marijuana produced by the plants, but nothing in this subsection makes it lawful to
14 sell, offer for sale, or make available for sale any marijuana or cannabis plants, unless as
15 otherwise authorized by law.

16 (b) (1) Notwithstanding subsection (a) of this section, a person may not possess marijuana
17 in public within this state and, upon conviction thereof, is guilty as follows:

18 (A) Of a misdemeanor for one ounce or less, punishable by a fine of up to \$100 for a first
19 offense, a fine of up to \$250 for a second offense, and a fine of up to \$500 for a third or subsequent
20 offense;

21 (B) Of a misdemeanor for four ounces or less and more than one ounce, punishable by a
22 fine of up to \$2,500 or confinement in jail for up to 30 days, or both fine and confinement, for a
23 first offense, a fine of up to \$5,000 or confinement in jail for up to 6 months, or both fine and
24 confinement, for a second offense, and a fine of up to \$15,000 or confinement in jail for up to one

25 year, or both fine and confinement; or

26 (C) Of a felony for more than four ounces, punishable by a fine of up to \$25,000 or
27 imprisonment in a state correctional facility for one to three years, or both fine and imprisonment.

28 (2) Notwithstanding subsection (a) of this section, a person may not possess marijuana
29 with the intent to distribute and, upon conviction, is guilty as follows:

30 (A) Of a misdemeanor for one ounce or less, punishable by a fine of up to \$2,500 or
31 confinement in jail for up to 6 months, or both fine and confinement, for a first offense, a fine of
32 up to \$10,000 or confinement in jail for up to one year, or both fine and confinement, for a second
33 offense;

34 (B) Of a felony for one ounce or less, punishable by a fine of up to \$15,000 or imprisonment
35 in a state correctional facility for one to three years, or both fine and imprisonment, for a third or
36 subsequent offense; or

37 (C) Of a felony for more than one ounce, punishable by a fine of up to \$25,000 or
38 imprisonment in a state correctional facility for one to five years, or both fine and imprisonment.

39 (3) Notwithstanding subsection (a) of this section, a person may not distribute marijuana
40 in exchange for money or other consideration and, upon conviction thereof, is guilty of a felony
41 punishable by a fine of up to \$50,000 or imprisonment for one to five years, or both fine and
42 imprisonment.

43 (4) Notwithstanding subsection (a) of this section, a person may not grow, harvest or
44 process, upon property that is not their principal residence any amount of cannabis plants, nor
45 may a person grow, harvest or process upon property that constitutes the person's principal
46 residence, more than eight cannabis plants and, upon conviction thereof, is guilty of a felony
47 punishable by a fine of up to \$50,000 or imprisonment in a state correctional facility for one to five
48 years, or both fine and imprisonment.

49 (c) Any offense in this section that would qualify for disposition under §60A-4-407 may be
50 disposed of under that section.

51 (d) The terms “controlled substance” and “controlled substances,” as used in this code, do
52 not include:

53 (1) Marijuana that is or was in the personal possession of a person 21 years of age or
54 older at any specific time if the total amount of marijuana that is or was in the possession of that
55 person at that time weighs or weighed two ounces or less:

56 (2) Cannabis plants that are or were grown, possessed, harvested, or processed by a
57 person 21 years of age or older upon property that constitutes or at the time constituted, that
58 person’s principal residence, if that person at that time was growing no more than six cannabis
59 plants with three or fewer being mature flowering plants and if all persons residing within a single
60 house or single rental unit upon that property at that time did not possess, grow, harvest or
61 process, in the aggregate, more than 12 cannabis plants, with six or fewer being mature, flowering
62 plants; or

63 (3) The marijuana produced by the plants which were grown, possessed, harvested or
64 processed by a person who was, pursuant to this section, permitted to grow, possess, harvest
65 and process such plants, if the marijuana is or was in the personal possession of that person who
66 is growing or grew the plants, upon the property on which the plants are or were grown.
67 Notwithstanding the provisions of this section, the terms ‘controlled substance’ and ‘controlled
68 substances’ as used in this code includes any marijuana or cannabis plant sold or offered for sale
69 or made available for sale.

70 (e) Notwithstanding any other provision of this code, no government agency or office may
71 limit or refuse to provide any facility, service, program, or benefit to any person based upon or by
72 reason of conduct that is made lawful by this section.

73 (f) Nothing in this section may be construed to require any government agency or office,
74 or any employer, to permit or accommodate the use, consumption, possession, transfer, display,
75 transportation, sale or growing of marijuana in the workplace or to affect the ability of any such
76 agency, office, or employer to establish and enforce policies restricting the use of marijuana by

77 employees.

78 (g) Nothing in this section may be construed to permit driving under the influence of
79 marijuana or driving while impaired by use or ingestion of marijuana or to modify or affect the
80 construction or application of any provision of this code related to driving under the influence of
81 marijuana or driving while impaired by marijuana.

82 (h) Nothing in this section may be construed to prohibit any person, business, corporation,
83 organization or other entity, or district government agency or office, who or which occupies, owns
84 or controls any real property, from prohibiting or regulating the possession, consumption, use,
85 display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

86 (i) It is lawful for any person 21 years of age or older to use, grow or possess with intent
87 to use, drug paraphernalia to possess or use marijuana if such possession or use is lawful under
88 this section, or to use, or possess with intent to use, drug paraphernalia to grow, possess, harvest
89 or process cannabis plants, the growth, possession, harvesting or processing of which is lawful
90 under this section.

91 (j) Notwithstanding any provision of this chapter to the contrary, it is lawful for any person
92 to deliver or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell,
93 drug paraphernalia under circumstances in which one knows or has reason to know that such
94 drug paraphernalia will be used solely for use of marijuana that is lawful under this section, or that
95 such drug paraphernalia will be used solely for growing, possession, harvesting, or processing of
96 cannabis plants that is lawful under this section.

NOTE: The purpose of this bill is to reduce the penalties and the criminalization of marijuana. It removes certain items from schedule I controlled substances list and creates new misdemeanor and felony offenses and penalties with respect to marijuana.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.