

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2505**

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

7
8 [Passed March 12, 2011; in effect thirty days from passage.]

9
10 AN ACT to amend and reenact §60A-1-101 the Code of West Virginia,
11 1931, as amended, to amend and reenact §60A-2-204 of said
12 code, and to amend and reenact §60A-4-401 of said code, all
13 relating to adding certain cannabinoids, hallucinogens and
14 stimulants to the Schedule I list of controlled substances;
15 proving penalties; and clarifying references to definitions.

16 *Be it enacted by the Legislature of West Virginia:*

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

21 **ARTICLE 2. STANDARDS AND SCHEDULES.**

22 **§60A-1-101. Definitions.**

23 As used in this act:

24 (a) "Administer" means the direct application of a controlled
25 substance whether by injection, inhalation, ingestion or any other

1 means to the body of a patient or research subject by:

2 (1) A practitioner (or, in his presence, by his authorized
3 agent); or

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

6 (b) "Agent" means an authorized person who acts on behalf of
7 or at the direction of a manufacturer, distributor or dispenser.
8 It does not include a common or contract carrier, public
9 warehouseman or employee of the carrier or warehouseman.

10 (c) "Analogue" means a substance that, in relation to a
11 controlled substance, has a substantially similar chemical
12 structure.

13 (d) "Bureau" means the "Bureau of Narcotics and Dangerous
14 Drugs, United States Department of Justice" or its successor
15 agency.

16 (e) "Controlled substance" means a drug, substance or
17 immediate precursor in Schedules I through V of article two.

18 (f) "Counterfeit substance" means a controlled substance
19 which, or the container or labeling of which, without
20 authorization, bears the trademark, trade name or other identifying
21 mark, imprint, number or device, or any likeness thereof, of a
22 manufacturer, distributor or dispenser other than the person who in
23 fact manufactured, distributed or dispensed the substance.

24 (g) "Imitation controlled substance" means: (1) A controlled
25 substance which is falsely represented to be a different controlled
26 substance; (2) a drug or substance which is not a controlled

1 substance but which is falsely represented to be a controlled
2 substance; or (3) a controlled substance or other drug or substance
3 or a combination thereof which is shaped, sized, colored, marked,
4 imprinted, numbered, labeled, packaged, distributed or priced so as
5 to cause a reasonable person to believe that it is a controlled
6 substance.

7 (h) "Deliver" or "delivery" means the actual, constructive or
8 attempted transfer from one person to another of: (1) A controlled
9 substance, whether or not there is an agency relationship; (2) a
10 counterfeit substance; or (3) an imitation controlled substance.

11 (i) "Dispense" means to deliver a controlled substance to an
12 ultimate user or research subject by or pursuant to the lawful
13 order of a practitioner, including the prescribing, administering,
14 packaging, labeling or compounding necessary to prepare the
15 substance for that delivery.

16 (j) "Dispenser" means a practitioner who dispenses.

17 (k) "Distribute" means to deliver, other than by administering
18 or dispensing, a controlled substance, a counterfeit substance or
19 an imitation controlled substance.

20 (l) "Distributor" means a person who distributes.

21 (m) "Drug" means: (1) Substances recognized as drugs in the
22 official "United States Pharmacopoeia, official Homeopathic
23 Pharmacopoeia of the United States or official National Formulary",
24 or any supplement to any of them; (2) substances intended for use
25 in the diagnosis, cure, mitigation, treatment or prevention of
26 disease in man or animals; (3) substances (other than food)

1 intended to affect the structure or any function of the body of man
2 or animals; and (4) substances intended for use as a component of
3 any article specified in clause (1), (2) or (3) of this
4 subdivision. It does not include devices or their components,
5 parts or accessories.

6 (n) "Immediate derivative" means a substance which the "West
7 Virginia Board of Pharmacy" has found to be and by rule designates
8 as being the principal compound or any analogue of the parent
9 compound manufactured from a known controlled substance primarily
10 for use and which has equal or similar pharmacologic activity as
11 the parent compound which is necessary to prevent, curtail or limit
12 manufacture.

13 (o) "Immediate precursor" means a substance which the "West
14 Virginia Board of Pharmacy" (hereinafter in this act referred to as
15 the State Board of Pharmacy) has found to be and by rule designates
16 as being the principal compound commonly used or produced primarily
17 for use and which is an immediate chemical intermediary used or
18 likely to be used in the manufacture of a controlled substance, the
19 control of which is necessary to prevent, curtail or limit
20 manufacture.

21 (p) "Manufacture" means the production, preparation,
22 propagation, compounding, conversion or processing of a controlled
23 substance, either directly or indirectly or by extraction from
24 substances of natural origin, or independently by means of chemical
25 synthesis, or by a combination of extraction and chemical
26 synthesis, and includes any packaging or repackaging of the

1 substance or labeling or relabeling of its container, except that
2 this term does not include the preparation, compounding, packaging
3 or labeling of a controlled substance:

4 (1) By a practitioner as an incident to his administering or
5 dispensing of a controlled substance in the course of his
6 professional practice; or

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

10 (q) "Marijuana" means all parts of the plant "Cannabis sativa
11 L.", whether growing or not; the seeds thereof; the resin extracted
12 from any part of the plant; and every compound, manufacture, salt,
13 immediate derivative, mixture or preparation of the plant, its
14 seeds or resin. It does not include the mature stalks of the
15 plant, fiber produced from the stalks, oil or cake made from the
16 seeds of the plant, any other compound, manufacture, salt,
17 immediate derivative, mixture or preparation of the mature stalks
18 (except the resin extracted therefrom), fiber, oil or cake, or the
19 sterilized seed of the plant which is incapable of germination.

20 (r) "Narcotic drug" means any of the following, whether
21 produced directly or indirectly by extraction from substances of
22 vegetable origin or independently by means of chemical synthesis,
23 or by a combination of extraction and chemical synthesis:

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

26 (2) Any salt, compound, isomer, immediate derivative or

1 preparation thereof which is chemically equivalent or identical
2 with any of the substances referred to in paragraph (1) of this
3 subdivision, but not including the isoquinoline alkaloids of opium.

4 (3) Opium poppy and poppy straw.

5 (4) Coca leaves and any salt, compound, immediate derivative
6 or preparation of coca leaves and any salt, compound, isomer,
7 immediate derivative or preparation thereof which is chemically
8 equivalent or identical with any of these substances, but not
9 including decocainized coca leaves or extractions of coca leaves
10 which do not contain cocaine or ecgonine.

11 (s) "Opiate" means any substance having an addiction-forming
12 or addiction-sustaining liability similar to morphine or being
13 capable of conversion into a drug having addiction-forming or
14 addiction-sustaining liability. It does not include, unless
15 specifically designated as controlled under section two hundred
16 one, article two of this chapter, the dextrorotatory isomer of
17 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It
18 does not include its racemic and levorotatory forms.

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

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

24 (v) "Placebo" means an inert medicament or preparation
25 administered or dispensed for its psychological effect, to satisfy
26 a patient or research subject or to act as a control in

1 experimental series.

2 (w) "Poppy straw" means all parts, except the seeds, of the
3 opium poppy after mowing.

4 (x) "Practitioner" means:

5 (1) A physician, dentist, veterinarian, scientific
6 investigator or other person licensed, registered or otherwise
7 permitted to distribute, dispense, conduct research with respect
8 to, or to administer a controlled substance in the course of
9 professional practice or research in this state.

10 (2) A pharmacy, hospital or other institution licensed,
11 registered or otherwise permitted to distribute, dispense, conduct
12 research with respect to, or to administer a controlled substance
13 in the course of professional practice or research in this state.

14 (y) "Production" includes the manufacture, planting,
15 cultivation, growing or harvesting of a controlled substance.

16 (z) "State", when applied to a part of the United States,
17 includes any state, district, commonwealth, territory, insular
18 possession thereof and any area subject to the legal authority of
19 the United States of America.

20 (aa) "Ultimate user" means a person who lawfully possesses a
21 controlled substance for his own use or for the use of a member of
22 his household or for administering to an animal owned by him or by
23 a member of his household.

24 **§60A-2-204. Schedule I.**

25 (a) Schedule I shall consist of the drugs and other
26 substances, by whatever official name, common or usual name,

1 chemical name, or brand name designated, listed in this section.

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

9 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)
10 -4-piperidinyl]-N-phenylacetamide);

11 (2) Acetylmethadol;

12 (3) Allylprodine;

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

15 (5) Alphameprodine;

16 (6) Alphamethadol;

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

20 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-
21 4-piperidinyl]-N-phenylpropanamide);

22 (9) Benzethidine;

23 (10) Betacetylmethadol;

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

26 (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-

1 hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
2 (13) Betameprodine;
3 (14) Betamethadol;
4 (15) Betaprodine;
5 (16) Clonitazene;
6 (17) Dextromoramide;
7 (18) Diampromide;
8 (19) Diethylthiambutene;
9 (20) Difenoxin;
10 (21) Dimenoxadol;
11 (22) Dimepheptanol;
12 (23) Dimethylthiambutene;
13 (24) Dioxaphetyl butyrate;
14 (25) Dipipanone;
15 (26) Ethylmethylthiambutene;
16 (27) Etonitazene;
17 (28) Etoxeridine;
18 (29) Furethidine;
19 (30) Hydroxypethidine;
20 (31) Ketobemidone;
21 (32) Levomoramide;
22 (33) Levophenacylmorphane;
23 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
24 piperidyl]-N-phenylpropanamide);
25 (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4-
26 piperidinyl]-N-phenylpropanamide);

- 1 (36) Morpheridine;
- 2 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 3 (38) Noracymethadol;
- 4 (39) Norlevorphanol;
- 5 (40) Normethadone;
- 6 (41) Norpipanone;
- 7 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
- 8 phenethyl)-4-piperidinyl] propanamide);
- 9 (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 10 (44) Phenadoxone;
- 11 (45) Phenampromide;
- 12 (46) Phenomorphan;
- 13 (47) Phenoperidine;
- 14 (48) Piritramide;
- 15 (49) Proheptazine;
- 16 (50) Properidine;
- 17 (51) Propiram;
- 18 (52) Racemoramide;
- 19 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-
- 20 piperidinyl]-propanamide);
- 21 (54) Tilidine;
- 22 (55) Trimeperidine.

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

24 unless listed in another schedule, any of the following opium

25 immediate derivatives, its salts, isomers and salts of isomers

26 whenever the existence of such salts, isomers and salts of isomers

1 is possible within the specific chemical designation:

- 2 (1) Acetorphine;
- 3 (2) Acetyldihydrocodeine;
- 4 (3) Benzylmorphine;
- 5 (4) Codeine methylbromide;
- 6 (5) Codeine-N-Oxide;
- 7 (6) Cyprenorphine;
- 8 (7) Desomorphine;
- 9 (8) Dihydromorphine;
- 10 (9) Drotebanol;
- 11 (10) Etorphine (except HCl Salt);
- 12 (11) Heroin;
- 13 (12) Hydromorphanol;
- 14 (13) Methyldesorphine;
- 15 (14) Methyldihydromorphine;
- 16 (15) Morphine methylbromide;
- 17 (16) Morphine methylsulfonate;
- 18 (17) Morphine-N-Oxide;
- 19 (18) Myrophine;
- 20 (19) Nicocodeine;
- 21 (20) Nicomorphine;
- 22 (21) Normorphine;
- 23 (22) Pholcodine;
- 24 (23) Thebacon.
- 25 (d) Hallucinogenic substances. -- Unless specifically
- 26 excepted or unless listed in another schedule, any material,

1 compound, mixture or preparation, which contains any quantity of
2 the following hallucinogenic substances, or which contains any of
3 its salts, isomers and salts of isomers, whenever the existence of
4 such salts, isomers, and salts of isomers is possible within the
5 specific chemical designation (for purposes of this subsection
6 only, the term "isomer" includes the optical, position and
7 geometric isomers):

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

11 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other
12 names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-
13 2,5-DMA;

14 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other
15 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-
16 desmethyl DOB; 2C-B, Nexus;

17 (4) 2,5-dimethoxyamphetamine; some trade or other names:
18 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

19 (5) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other
20 names: DOET;

21 (6) 4-methoxyamphetamine; some trade or other names:
22 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

23 (7) 5-methoxy-3, 4-methylenedioxy-amphetamine;

24 (8) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other
25 names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM";
26 and "STP";

- 1 (9) 3,4-methylenedioxy amphetamine;
- 2 (10) 3,4-methylenedioxymethamphetamine (MDMA);
- 3 (11) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-
- 4 ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl
- 5 MDA, MDE, MDEA);
- 6 (12) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-
- 7 hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-
- 8 hydroxy MDA);
- 9 (13) 3,4,5-trimethoxy amphetamine;
- 10 (14) Bufotenine; some trade and other names: 3-
- 11 (beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)
- 12 -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-
- 13 dimethyltryptamine; mappine;
- 14 (15) Diethyltryptamine; some trade and other names: N,
- 15 N-Diethyltryptamine; DET;
- 16 (16) Dimethyltryptamine; some trade or other names: DMT;
- 17 (17) Ibogaine; some trade and other names: 7-Ethyl-6, 6
- 18 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
- 19 pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;
- 20 (18) Lysergic acid diethylamide;
- 21 (19) Marihuana;
- 22 (20) Mescaline;
- 23 (21) Parahexyl-7374; some trade or other names: 3-Hexyl
- 24 -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo
- 25 [b,d] pyran; Synhexyl;
- 26 (22) Peyote; meaning all parts of the plant presently

1 classified botanically as *Lophophora williamsii* Lemaire, whether
2 growing or not, the seeds thereof, any extract from any part of
3 such plant, and every compound, manufacture, salts, immediate
4 derivative, mixture or preparation of such plant, its seeds or
5 extracts;

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

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

8 (25) Psilocybin;

9 (26) Psilocyn;

10 (27) Tetrahydrocannabinols; synthetic equivalents of the
11 substances contained in the plant, or in the resinous extractives
12 of *Cannabis*, sp. and/or synthetic substances, immediate derivatives
13 and their isomers with similar chemical structure and
14 pharmacological activity such as the following:

15 delta-1 Cis or trans tetrahydrocannabinol, and their optical
16 isomers;

17 delta-6 Cis or trans tetrahydrocannabinol, and their optical
18 isomers;

19 delta-3,4 Cis or trans tetrahydrocannabinol, and its optical
20 isomers;

21 (Since nomenclature of these substances is not internationally
22 standardized, compounds of these structures, regardless of
23 numerical designation of atomic positions covered.)

24 (28) Ethylamine analog of phencyclidine; some trade or other
25 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)
26 ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

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

3 (30) Thiophene analog of phencyclidine; some trade or other
4 names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of
5 phencyclidine; TPCP, TCP;

6 (31) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names:
7 TCPy.

8 (32) Synthetic Cannabinoids as follows:

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

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

13 (c) [(6aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-
14 yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-
15 210};

16 (d) (dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-
17 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)
18 {also known as HU-211};

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

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

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

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

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

1 (j) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone
2 {also known as JWH-250};

3 (k) 2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl)-5-
4 (2-methyloctan-2-yl)phenol {also known as CP 55,940};

5 (l) (4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-
6 methanone {also known as JWH-122};

7 (m) (4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-
8 methanone {also known as JWH-398};

9 (n) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone {also
10 known as RCS-4};

11 (o) 1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
12 methoxyphenyl)ethanone {also known as RCS-8}; and

13 (Since nomenclature of these substances is not internationally
14 standardized, any immediate precursor or immediate derivative of
15 these substances shall be covered).

16 (e) Depressants. Unless specifically excepted or unless
17 listed in another schedule, any material, compound, mixture, or
18 preparation which contains any quantity of the following substances
19 having a depressant effect on the central nervous system, including
20 its salts, isomers and salts of isomers whenever the existence of
21 such salts, isomers and salts of isomers is possible within the
22 specific chemical designation:

23 (1) Mecloqualone;

24 (2) Methaqualone.

25 (f) Stimulants. Unless specifically excepted or unless
26 listed in another schedule, any material, compound, mixture, or

1 preparation which contains any quantity of the following substances
2 having a stimulant effect on the central nervous system, including
3 its salts, isomers, and salts of isomers:

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

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

9 (3) Fenethylamine;

10 (4) Methcathinone, its immediate precursors and immediate
11 derivatives, its salts, optical isomers and salts of optical
12 isomers; some other names: (2-(methylamino)-propionophenone;
13 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-
14 one; alpha-N-methylaminopropionophenone; monomethylpropion; 3,4-
15 methylenedioxypropionophenone and/or mephedrone; 3,4-
16 methylenedioxypropionophenone (MPVD); ephedrone; N-methylcathinone;
17 methylcathinone; AL-464; AL-422; AL- 463 and UR1432;

18 (5) (+-) cis-4-methylaminorex; ((-) cis-4,5-dihydro-4-methyl-
19 5-phenyl-2-oxazolamine);

20 (6) N-ethylamphetamine;

21 (7) N,N-dimethylamphetamine; also known as N,N-alpha-
22 trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

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

26 (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide

1 (benzylfentanyl), its optical isomers, salts, and salts of isomers.

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

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

5 **ARTICLE 4. OFFENSES AND PENALTIES.**

6 **§60A-4-401. Prohibited acts A; penalties.**

7 (a) Except as authorized by this act, it is unlawful for any
8 person to manufacture, deliver, or possess with intent to
9 manufacture or deliver, a controlled substance.

10 Any person who violates this subsection with respect to:

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

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

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

25 (iv) A substance classified in Schedule V is guilty of a
26 misdemeanor and, upon conviction, may be confined in jail for not

1 less than six months nor more than one year, or fined not more than
2 five thousand dollars, or both: *Provided*, That for offenses
3 relating to any substance classified as Schedule V in article ten
4 of this chapter, the penalties established in said article apply.

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

8 Any person who violates this subsection with respect to:

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

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

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

24 (iv) A counterfeit substance classified in Schedule V is
25 guilty of a misdemeanor and, upon conviction, may be confined in
26 jail for not less than six months nor more than one year, or fined

1 not more than five thousand dollars, or both: *Provided*, That for
2 offenses relating to any substance classified as Schedule V in
3 article ten of this chapter, the penalties established in said
4 article apply.

5 (c) It is unlawful for any person knowingly or intentionally
6 to possess a controlled substance unless the substance was obtained
7 directly from, or pursuant to, a valid prescription or order of a
8 practitioner while acting in the course of his professional
9 practice, or except as otherwise authorized by this act. Any
10 person who violates this subsection is guilty of a misdemeanor, and
11 disposition may be made under section four hundred seven of this
12 article, subject to the limitations specified in said section, or
13 upon conviction, such person may be confined in jail not less than
14 ninety days nor more than six months, or fined not more than one
15 thousand dollars, or both: *Provided*, That notwithstanding any other
16 provision of this act to the contrary, any first offense for
17 possession of Synthetic Cannabinoids as defined by subdivision (32)
18 subsection, (d), section 101, article 1 of this chapter; 3,4-
19 methylenedioxypropylvalerone (MPVD) and 3,4-methylenedioxypropylvalerone
20 and/or mephedrone as defined in subsection (f), section 101,
21 article 1 of this chapter; or less than 15 grams of marijuana,
22 shall be disposed of under said section.

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

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

26 (2) To create, possess or sell or otherwise transfer any

1 equipment with the intent that such equipment shall be used to
2 apply a trademark, trade name, or other identifying mark, imprint,
3 number or device, or any likeness thereof, upon a counterfeit
4 substance, an imitation controlled substance, or the container or
5 label of a counterfeit substance or an imitation controlled
6 substance.

7 (3) Any person who violates this subsection is guilty of a
8 misdemeanor and, upon conviction, may be imprisoned in jail for not
9 less than six months nor more than one year, or fined not more than
10 five thousand dollars, or both. Any person being eighteen years
11 old or more who violates subdivision (1) of this subsection and, in
12 so doing, distributes or delivers an imitation controlled substance
13 to a minor child who is at least three years younger than such
14 person is guilty of a felony and, upon conviction, may be
15 imprisoned in the state correctional facility for not less than one
16 year nor more than three years, or fined not more than ten thousand
17 dollars, or both.

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