

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 329**

BY SENATORS WOELFEL, PLYMALE, PALUMBO AND

STOLLINGS

[Introduced February 16, 2017; Referred  
to the Committee on the Judiciary; and then to the  
Committee on Health and Human Resources]

1 A BILL to amend and reenact §60A-1-101 of the Code of West Virginia, 1931, as amended; to  
 2 amend and reenact §60A-2-204 of said code; and to amend said code by adding thereto  
 3 a new section, designated §60A-4-414, all relating to addressing the recent increase in  
 4 fentanyl, fentanyl derivatives and analogs, including misrepresented substances, in this  
 5 state; defining "fentanyl derivative or analog"; adding fentanyl derivative or analog to the  
 6 list of Schedule I drugs and substances; creating a felony offense for manufacturing,  
 7 possessing, distributing, dispensing or transporting any quantity of fentanyl, or any  
 8 fentanyl derivative or analog, unless otherwise authorized, and providing penalties;  
 9 creating a felony offense for selling or distributing any Schedule I controlled substance  
 10 while misrepresenting the identity of the Schedule I controlled substance being sold or  
 11 distributed as a legitimate pharmaceutical product and providing penalties; and stating  
 12 that these new felony offenses are separate offenses from others in the code.

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

1 That §60A-1-101 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; that §60A-2-204 of said code be amended and reenacted; and that said code be  
 3 amended by adding thereto a new section, designated §60A-4-414, all to read as follows:

**ARTICLE 1. DEFINITIONS.**

**§60A-1-101. Definitions.**

1 As used in this act:

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

4 (1) A practitioner (or, in his or her presence, by his or her authorized agent); or

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

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

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

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

13 (e) "Controlled substance" means a drug, substance or immediate precursor in Schedules  
14 I through V of article two of this chapter.

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

20 (g) "Imitation controlled substance" means: (1) A controlled substance which is falsely  
21 represented to be a different controlled substance; (2) a drug or substance which is not a  
22 controlled substance but which is falsely represented to be a controlled substance; or (3) a  
23 controlled substance or other drug or substance or a combination thereof which is shaped, sized,  
24 colored, marked, imprinted, numbered, labeled, packaged, distributed or priced so as to cause a  
25 reasonable person to believe that it is a controlled substance.

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

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

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

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

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

36 (m) "Drug" means: (1) Substances recognized as drugs in the official "United States  
37 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National  
38 Formulary", or any supplement to any of them; (2) substances intended for use in the diagnosis,  
39 cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than  
40 food) intended to affect the structure or any function of the body of man or animals; and (4)  
41 substances intended for use as a component of any article specified in subdivision (1), (2) or (3)  
42 of this subdivision. It does not include devices or their components, parts or accessories.

43 (n) "Fentanyl derivative or analog" means a substance containing any quantity of fentanyl,  
44 or any of its salts, isomers, or salts of isomers, or any quantity of any chemical compound, except  
45 compounds scheduled as controlled substances pursuant to this chapter or unless specifically  
46 excepted, which is not approved by the United States Food and Drug Administration or, if  
47 approved, which is not dispensed or possessed in accordance with state and federal law  
48 structurally derived from 1-ethyl-4-(N-phenylamido) piperidine by substitution in the following  
49 ways:

50 (1) By substitution at the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or  
51 ethyloxotetrazole ring system and of the terminal amido-hydrogen atom with an alkyl, alkoxy,  
52 cycloalkyl or furanyl group;

53 (2) Whether or not the compound is further modified in one or more of the following ways:  
54 (A) By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or  
55 halide substituents; (B) by substitution on the piperadine ring to any extent with alkyl, allyl, alkoxy,  
56 hydroxyl, or halide substituents at the 2-, 3-, 5- or 6- positions, or any combination thereof; (C) by  
57 substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester  
58 substituent at the 4- position; or (D) by substitution on the 1-ethyl group to any extent with alkyl,  
59 alkoxy, or hydroxyl substituents.

60 For purposes of this chapter, the term "fentanyl derivative or analog" includes carfentanyl,

61 any substance containing any quantity of carfentanyl, or any of its salts, isomers, or salts of  
62 isomers, or any other fentanyl analog that is not otherwise scheduled in this chapter.

63 ~~(n)~~ (o) "Immediate derivative" means a substance which is the principal compound or any  
64 analogue of the parent compound manufactured from a known controlled substance primarily for  
65 use and which has equal or similar pharmacologic activity as the parent compound which is  
66 necessary to prevent, curtail or limit manufacture.

67 ~~(e)~~ (p) "Immediate precursor" means a substance which is the principal compound  
68 commonly used or produced primarily for use and which is an immediate chemical intermediary  
69 used or likely to be used in the manufacture of a controlled substance, the control of which is  
70 necessary to prevent, curtail or limit manufacture.

71 ~~(f)~~ (q) "Manufacture" means the production, preparation, propagation, compounding,  
72 conversion or processing of a controlled substance, either directly or indirectly or by extraction  
73 from substances of natural origin, or independently by means of chemical synthesis, or by a  
74 combination of extraction and chemical synthesis, and includes any packaging or repackaging of  
75 the substance or labeling or relabeling of its container, except that this term does not include the  
76 preparation, compounding, packaging or labeling of a controlled substance:

77 (1) By a practitioner as an incident to his or her administering or dispensing of a controlled  
78 substance in the course of his or her professional practice; or

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

81 ~~(g)~~ (r) "Marijuana" means all parts of the plant "Cannabis sativa L.", whether growing or  
82 not; the seeds thereof; the resin extracted from any part of the plant; and every compound,  
83 manufacture, salt, immediate derivative, mixture or preparation of the plant, its seeds or resin. It  
84 does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made  
85 from the seeds of the plant, any other compound, manufacture, salt, immediate derivative, mixture  
86 or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the

87 sterilized seed of the plant which is incapable of germination.

88 ~~(f)~~ (s) "Narcotic drug" means any of the following, whether produced directly or indirectly  
89 by extraction from substances of vegetable origin or independently by means of chemical  
90 synthesis, or by a combination of extraction and chemical synthesis:

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

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

96 (3) Opium poppy and poppy straw.

97 (4) Coca leaves and any salt, compound, immediate derivative or preparation of coca  
98 leaves and any salt, compound, isomer, immediate derivative or preparation thereof which is  
99 chemically equivalent or identical with any of these substances, but not including decocainized  
100 coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

101 ~~(e)~~ (t) "Opiate" means any substance having an addiction-forming or addiction-sustaining  
102 liability similar to morphine or being capable of conversion into a drug having addiction-forming  
103 or addiction-sustaining liability. It does not include, unless specifically designated as controlled  
104 under section two hundred one, article two of this chapter, the dextrorotatory isomer of 3-methoxy-  
105 n-methylmorphinan and its salts (dextromethorphan). It does not include its racemic and  
106 levorotatory forms.

107 ~~(f)~~ (u) "Opium poppy" means the plant of the species "Papaver somniferum L.", except its  
108 seeds.

109 ~~(g)~~ (v) "Person" means individual, corporation, government or governmental subdivision  
110 or agency, business trust, estate, trust, partnership or association, or any other legal entity.

111 ~~(h)~~ (w) "Placebo" means an inert medicament or preparation administered or dispensed  
112 for its psychological effect, to satisfy a patient or research subject or to act as a control in

113 experimental series.

114 ~~(w)~~ (x) "Poppy straw" means all parts, except the seeds, of the opium poppy after mowing.

115 ~~(x)~~ (y) "Practitioner" means:

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

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

122 ~~(y)~~ (z) "Production" includes the manufacture, planting, cultivation, growing or harvesting  
123 of a controlled substance.

124 ~~(z)~~ (aa) "State", when applied to a part of the United States, includes any state, district,  
125 commonwealth, territory, insular possession thereof and any area subject to the legal authority of  
126 the United States of America.

127 ~~(aa)~~ (bb) "Ultimate user" means a person who lawfully possesses a controlled substance  
128 for his or her own use or for the use of a member of his or her household or for administering to  
129 an animal owned by him or her or by a member of his or her household.

## **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)~~ (35) of this subsection only, the

- 7 term 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) Allyprodine;
- 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) Difenoxyin;
- 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 derivative or analog, as that term is defined in article one of this chapter:
- 41 Provided, That fentanyl remains a Schedule II substance, as set forth in section two hundred six
- 42 of this article;
- 43 ~~(29)~~ (30) Furethidine;
- 44 ~~(30)~~ (31) Hydroxypethidine;
- 45 ~~(31)~~ (32) Ketobemidone;
- 46 ~~(32)~~ (33) Levomoramide;
- 47 ~~(33)~~ (34) Levophenacymorphan;
- 48 ~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4- piperidyl]-N-
- 49 phenylpropanamide);
- 50 ~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4- piperidyl]-
- 51 phenylpropanamide);
- 52 ~~(36)~~ (37) Morpheridine;
- 53 ~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 54 ~~(38)~~ (39) Noracymethadol;
- 55 ~~(39)~~ (40) Norlevorphanol;
- 56 ~~(40)~~ (41) Normethadone;
- 57 ~~(41)~~ (42) Norpipanone;
- 58 ~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide);

- 59           ~~(43)~~ (44) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 60           ~~(44)~~ (45) Phenadoxone;
- 61           ~~(45)~~ (46) Phenampromide;
- 62           ~~(46)~~ (47) Phenomorphan;
- 63           ~~(47)~~ (48) Phenoperidine;
- 64           ~~(48)~~ (49) Piritramide;
- 65           ~~(49)~~ (50) Proheptazine;
- 66           ~~(50)~~ (51) Properidine;
- 67           ~~(51)~~ (52) Propiram;
- 68           ~~(52)~~ (53) Racemoramide;
- 69           ~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4- piperidiny]-propanamide);
- 70           ~~(54)~~ (55) Tilidine;
- 71           ~~(55)~~ (56) Trimeperidine.

72           (c) *Opium derivatives*. -- Unless specifically excepted or unless listed in another schedule,

73 any of the following opium immediate derivatives, its salts, isomers and salts of isomers whenever

74 the existence of such salts, isomers and salts of isomers is possible within the specific chemical

75 designation:

- 76           (1) Acetorphine;
- 77           (2) Acetyldihydrocodeine;
- 78           (3) Benzylmorphine;
- 79           (4) Codeine methylbromide;
- 80           (5) Codeine-N-Oxide;
- 81           (6) Cyprenorphine;
- 82           (7) Desomorphine;
- 83           (8) Dihydromorphine;
- 84           (9) Drotebanol;

- 85 (10) Etorphine (except HCl Salt);  
86 (11) Heroin;  
87 (12) Hydromorphenol;  
88 (13) Methyldesorphine;  
89 (14) Methyldihydromorphine;  
90 (15) Morphine methylbromide;  
91 (16) Morphine methylsulfonate;  
92 (17) Morphine-N-Oxide;  
93 (18) Myrophine;  
94 (19) Nicocodeine;  
95 (20) Nicomorphine;  
96 (21) Normorphine;  
97 (22) Pholcodine;  
98 (23) Thebacon.

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

- 105 (1) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-  
106 1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;  
107 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-  
108 dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;  
109 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-  
110 dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

- 111 (4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has  
112 the acronym 25B-NBOMe.
- 113 (B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).
- 114 (C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)
- 115 (5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-  
116 methylphenethylamine; 2,5-DMA;
- 117 (6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;
- 118 (7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
- 119 (8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-  
120 methylphenethylamine; paramethoxyamphetamine; PMA;
- 121 (9) 5-methoxy-3, 4-methylenedioxy-amphetamine;
- 122 (10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-  
123 dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";
- 124 (11) 3,4-methylenedioxy amphetamine;
- 125 (12) 3,4-methylenedioxymethamphetamine (MDMA);
- 126 (13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4  
127 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);
- 128 (14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-  
129 3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);
- 130 (15) 3,4,5-trimethoxy amphetamine;
- 131 (15) (16) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
- 132 (17) Alpha-methyltryptamine (other name: AMT);
- 133 (18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-  
134 hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-  
135 dimethyltryptamine; mappine;
- 136 (19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

- 137 (20) Dimethyltryptamine; some trade or other names: DMT;
- 138 (21) 5-Methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
- 139 (22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-
- 140 octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe
- 141 iboga;
- 142 (23) Lysergic acid diethylamide;
- 143 (24) Marihuana;
- 144 (25) Mescaline;
- 145 (26) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-
- 146 tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;
- 147 (27) Peyote; meaning all parts of the plant presently classified botanically as *Lophophora*
- 148 *williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such
- 149 plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of
- 150 such plant, its seeds or extracts;
- 151 (28) N-ethyl-3-piperidyl benzilate;
- 152 (29) N-methyl-3-piperidyl benzilate;
- 153 (30) Psilocybin;
- 154 (31) Psilocyn;
- 155 (32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the
- 156 plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, immediate
- 157 derivatives and their isomers with similar chemical structure and pharmacological activity such as
- 158 the following:
- 159 delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;
- 160 delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;
- 161 delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;
- 162 (Since nomenclature of these substances is not internationally standardized, compounds

163 of these structures, regardless of numerical designation of atomic positions covered.)

164 (33) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-  
165 phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,  
166 cyclohexamine, PCE;

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

169 (35) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-  
170 cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine; TCP, TCP;

171 (36) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

172 (37) 4-methylmethcathinone (Mephedrone);

173 (38) 3,4-methylenedioxypropylvalerone (MDPV);

174 (39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

175 (40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

176 (41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

177 (42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

178 (43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

179 (44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

180 (45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

181 (46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)

182 (47) 2-(2,5-Dimethoxy-

183 4-(n)-propylphenyl) ethanamine (2C-P)

184 (48) 3,4-Methylenedioxy-N-methylcathinone (Methylone)

185 (49) (2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7, its optical isomers, salts  
186 and salts of isomers

187 (50) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-  
188 (dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)

- 189 (51) Alpha-methyltryptamine (other name: AMT)
- 190 (52) 5-methoxy-N ,N-diisopropyltryptamine (other name: 5-MeO-DIPT)
- 191 (53) Synthetic Cannabinoids as follows:
- 192 (A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5- (2-methyloctan-2-yl) phenol {also known as CP
- 193 47,497 and homologues};
- 194 (B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as
- 195 CP 47,497-C8 homolog};
- 196 (C) [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-
- 197 tetrahydrobenzo[c]chromen-1-ol] {also known as HU-210};
- 198 (D) (dexanabinol);
- 199 (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-
- 200 tetrahydrobenzo
- 201 [c]chromen-1-ol) {also known as HU-211};
- 202 (E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};
- 203 (F) 1-Butyl-3-(1-naphthoyl) indole {also known as JWH-073};
- 204 (G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-
- 205 015};
- 206 (H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};
- 207 (I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as
- 208 JWH-200};
- 209 (J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};
- 210 (K) 2-((1S,2S,5S)-5-hydroxy-2- (3-hydroxypropyl)cyclohexyl) -5-(2-methyloctan-2-
- 211 yl)phenol {also known as CP 55,940};
- 212 (L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-
- 213 122};
- 214 (M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-

- 215 398;
- 216 (N) (4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};
- 217 (O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known
- 218 as RCS-8};
- 219 (P) 1-pentyl-3-[1-(4-methoxynaphthoyl)] indole (JWH-081);
- 220 (Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and
- 221 (R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).
- 222 (54) Synthetic cannabinoids or any material, compound, mixture or preparation which
- 223 contains any quantity of the following substances, including their analogues, congeners,
- 224 homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as
- 225 follows:
- 226 (A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-
- 227 YL) phenol);
- 228 (B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-
- 229 6A,7,10, 10A-tetrahydrobenzo[C] chromen-1-OL)];
- 230 (C) HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-
- 231 methyloctan-2-YL)-6A,7,10,10 atetrahydrobenzo [C]chromen-1-OL);
- 232 (D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;
- 233 (E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;
- 234 (F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;
- 235 (G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)- Naphthalen-1-ylmethanone;
- 236 (H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.]
- 237 (55) Synthetic cannabinoids including any material, compound, mixture or preparation that
- 238 is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug
- 239 Administration approved drug or used within legitimate and approved medical research and which
- 240 contains any quantity of the following substances, their salts, isomers, whether optical positional



241 or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless  
242 specifically exempted, whenever the existence of these salts, isomers, analogues, homologues  
243 and salts of isomers, analogues and homologues if possible within the specific chemical  
244 designation:

245 (A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained  
246 in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in  
247 the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their  
248 isomers with analogous chemical structure and or pharmacological activity such as the following:

249 (i) DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.

250 (ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their optical isomers.

251 (iii) DELTA-3,4 CIS or their trans tetrahydrocannabinol and their optical isomers.

252 (B) Naphthoylindoles or any compound containing a 3-(-1- Naphthoyl) indole structure with  
253 substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole  
254 ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall  
255 include the following:

256 (i) JWH 015;

257 (ii) JWH 018;

258 (iii) JWH 019;

259 (iv) JWH 073;

260 (v) JWH 081;

261 (vi) JWH 122;

262 (vii) JWH 200;

263 (viii) JWH 210;

264 (ix) JWH 398;

265 (x) AM 2201;

266 (xi) WIN 55,212.

267 (56) Naphthylmethyloindoles or any compound containing a 1-hindol-3-yl-(1-naphthyl)  
268 methane structure with a substitution at the nitrogen atom of the indole ring whether or not further  
269 substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to  
270 any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

271 (57) Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole structure  
272 with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the  
273 pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This  
274 shall include, but not be limited to, JWH 147 and JWH 307.

275 (58) Naphthylmethyloindenes or any compound containing a Naphthylideneindene  
276 structure with substitution at the 3-Position of the indene ring whether or not further substituted  
277 in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.  
278 This shall include, but not be limited to, JWH 176.

279 (59) Phenylacetylindoles or any compound containing a 3-Phenylacetylindole structure  
280 with substitution at the nitrogen atom of the indole ring whether or not further substituted in the  
281 indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall  
282 include the following:

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

284 (B) JWH 250;

285 (C) JWH 203;

286 (D) JWH 251;

287 (E) JWH 302.

288 (60) Cyclohexylphenols or any compound containing a 2-(3-hydroxycyclohexyl) phenol  
289 structure with a substitution at the 5-position of the phenolic ring whether or not substituted in the  
290 cyclohexyl ring to any extent. This shall include the following:

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

292 (B) Cannabicyclohexanol;

293 (C) CP 55,940.

294 (61) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with  
295 substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole  
296 ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include  
297 the following:

298 (A) AM 694;

299 (B) Pravadoline WIN 48,098;

300 (C) RCS 4;

301 (D) AM 679.

302 (62) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-  
303 YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

304 (63) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-  
305 tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210,  
306 HU-211, JWH 051 and JWH 133.

307 (64) Adamantoylindoles or any compound containing a 3-(1- Adamantoyl) indole structure  
308 with substitution at the nitrogen atom of the indole ring whether or not further substituted in the  
309 adamantoyl ring system to any extent. This shall include AM1248.

310 (65) Tetramethylcyclopropylindoles or any compound containing A 3-  
311 tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring  
312 whether or not further substituted in the indole ring to any extent and whether or not substituted  
313 in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

314 (66) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

315 (67) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist  
316 as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV  
317 and V, not federal Food and Drug Administration approved drug or used within legitimate,  
318 approved medical research. Since nomenclature of these substances is not internationally

319 standardized, any immediate precursor or immediate derivative of these substances shall be  
320 covered.

321 (68) Tryptamines:

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

323 (B) 4-hydroxy-N N-diisopropyltryptamine (4-HO-DiPT)

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

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

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

327 (F) 5-methoxy- $\alpha$ -methyltryptamine (5-MeO-AMT)

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

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

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

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

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

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

338 (1) Mecloqualone;

339 (2) Methaqualone.

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

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

- 345 dihydro-5-phenyl-2-oxazolamine;
- 346 (2) Cathinone; some trade or other names: 2-amino-1-phenyl-1- propanone, alpha-
- 347 aminopropiophenone, 2-aminopropiophenone and norephedrone;
- 348 (3) Fenethylamine;
- 349 (4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical
- 350 isomers and salts of optical isomers; some other names: (2-(methylamino)-propiophenone; alpha-
- 351 (methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1- one; alpha---
- 352 methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypropylone and/or
- 353 mephedrone; 3,4-methylenedioxypropylone (MPVD); ephedrone; N-methylcathinone;
- 354 methylcathinone; AL-464; AL-422; AL- 463 and UR1432;
- 355 (5) (+-) cis-4-methylaminorex; ((+-) cis-4,5-dihydro-4-methyl- 5-phenyl-2-oxazolamine);
- 356 (6) N-ethylamphetamine;
- 357 (7) N,N-dimethylamphetamine; also known as N,N-alpha- trimethyl-benzeneethanamine;
- 358 N,N-alpha-trimethylphenethylamine.
- 359 (8) Alpha-pyrrolidinopropiophenone, also known as alpha-PVP, optical isomers, salts and
- 360 salts of isomers.
- 361 (9) Substituted amines:
- 362 (A) 2-Fluoroamphetamine
- 363 (B) 3-Fluoroamphetamine
- 364 (C) 4-Fluoroamphetamine
- 365 (D) 2-chloroamphetamine
- 366 (E) 3-chloroamphetamine
- 367 (F) 4-chloroamphetamine
- 368 (G) 2-Fluoromethamphetamine
- 369 (H) 3-Fluoromethamphetamine
- 370 (I) 4-Fluoromethamphetamine

371 (J) 4-chloromethamphetamine

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

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

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

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

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

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

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

388 (B) By substitution at the 3-position with an acyclic alkyl substituent.

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

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

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

**ARTICLE 4. OFFENSES AND PENALTIES**

**§60A-4-414. Unlawful production, manufacture or possession of fentanyl, its derivatives, or any Schedule I substance that is misrepresented.**

1        (a) Except as authorized by this chapter, it is unlawful for any person to knowingly or  
2 intentionally manufacture, possess, distribute, dispense, or transport any quantity of fentanyl, or  
3 any fentanyl derivative or analog, with intent to manufacture, distribute, dispense, deliver,  
4 administer or use the fentanyl, or any fentanyl derivative or analog. Any person who violates this  
5 subsection is guilty of a felony and, upon conviction thereof, shall be confined in a correctional  
6 facility for a determinate sentence of not less than one year nor more than twenty years or fined  
7 not more than \$10,000, or both confined and fined.

8        (b) It is unlawful for any person to knowingly and intentionally sell or distribute any  
9 Schedule I controlled substance while misrepresenting the identity of the Schedule I controlled  
10 substance being sold or distributed as a legitimate pharmaceutical product. Any person who  
11 violates this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a  
12 correctional facility for a determinate sentence of not less than one year nor more than five years  
13 or fined not more than \$2,500, or both confined and fined.

14        (c) The offenses created in this section are separate offenses from others in this chapter.

NOTE: The purpose of this bill is to address the recent prevalence of fentanyl, fentanyl derivatives and fentanyl analogs in this state, as well as the practice of misrepresenting the identity of a Schedule I controlled substance.

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