

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2329

BY DELEGATES ROHRBACH, SOBONYA, ELLINGTON

UPSON, LOVEJOY, FRICH, CANESTRARO, ISNER,

N. FOSTER, WARD AND C. MILLER

[Passed April 8, 2017; in effect ninety days from passage.]

OFFICE WEST VIRGINIA
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2017 APR 24 P 4: 23

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1 AN ACT 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 prohibiting the unlawful production,
4 manufacture or possession of fentanyl and fentanyl analogs and derivatives; defining a
5 fentanyl analog or derivative; classifying a fentanyl analog or derivative as a Schedule I
6 drug; classifying additional drugs to Schedule I of uniform controlled substances act;
7 creating a felony offense and imposing criminal penalties for the unlawful manufacture,
8 delivery, possession with intent to manufacture or deliver, and transport into state of
9 fentanyl; defining terms; establishing increased penalties for manufacturing, delivering,
10 possessing with intent to manufacture or deliver, and transporting into state with intent to
11 deliver or manufacture in which fentanyl is a controlled substance involved in the offense;
12 and providing for penalties based upon weight.

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 analog or derivative" means any substance which has a chemical structure
44 which is substantially similar to the chemical structure of fentanyl, including any of its salts,
45 isomers, or salts of isomers, including any chemical compound or mixture. For purposes of this
46 chapter, the term "fentanyl derivative or analog" includes any fentanyl analog that is not otherwise
47 scheduled in this chapter.

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

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

56 (q) "Manufacture" means the production, preparation, propagation, compounding,
57 conversion or processing of a controlled substance, either directly or indirectly or by extraction
58 from substances of natural origin, or independently by means of chemical synthesis, or by a
59 combination of extraction and chemical synthesis, and includes any packaging or repackaging of

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

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

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

66 (r) "Marijuana" means all parts of the plant "Cannabis sativa L.", whether growing or not;
67 the seeds thereof; the resin extracted from any part of the plant; and every compound,
68 manufacture, salt, immediate derivative, mixture or preparation of the plant, its seeds or resin. It
69 does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made
70 from the seeds of the plant, any other compound, manufacture, salt, immediate derivative, mixture
71 or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the
72 sterilized seed of the plant which is incapable of germination.

73 (s) "Narcotic drug" means any of the following, whether produced directly or indirectly by
74 extraction from substances of vegetable origin or independently by means of chemical synthesis,
75 or by a combination of extraction and chemical synthesis:

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

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

81 (3) Opium poppy and poppy straw.

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

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

92 (u) "Opium poppy" means the plant of the species "Papaver somniferum L.", except its
93 seeds.

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

96 (w) "Placebo" means an inert medicament or preparation administered or dispensed for
97 its psychological effect, to satisfy a patient or research subject or to act as a control in
98 experimental series.

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

100 (y) "Practitioner" means:

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

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

107 (z) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a
108 controlled substance.

109 (aa) "State", when applied to a part of the United States, includes any state, district,
110 commonwealth, territory, insular possession thereof and any area subject to the legal authority of
111 the United States of America.

112 (bb) "Ultimate user" means a person who lawfully possesses a controlled substance for
113 his or her own use or for the use of a member of his or her household or for administering to an
114 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) 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-piperidiny]—
9 phenylacetamide);

10 (2) Acetylmethadol;

11 (3) Allylprodine;

12 (4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-
13 acetylmethadol, 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-piperidiny]—
19 phenylpropanamide);

20 (9) Benzethidine;

21 (10) Betacetylmethadol;

- 22 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4- piperidiny]-N-
23 phenylpropanamide);
- 24 (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-
25 4-piperidiny]-N-phenylpropanamide);
- 26 (13) Betameprodine;
- 27 (14) Betamethadol;
- 28 (15) Betaprodine;
- 29 (16) Clonitazene;
- 30 (17) Dextromoramide;
- 31 (18) Diampromide;
- 32 (19) Diethylthiambutene;
- 33 (20) Difenoxin;
- 34 (21) Dimenoxadol;
- 35 (22) Dimepheptanol;
- 36 (23) Dimethylthiambutene;
- 37 (24) Dioxaphetyl butyrate;
- 38 (25) Dipipanone;
- 39 (26) Ethylmethylthiambutene;
- 40 (27) Etonitazene;
- 41 (28) Etoxidine;
- 42 (29) Fentanyl analog or derivative, as that term is defined in article one of this chapter:
43 *Provided*, That fentanyl and carfentanil remains a Schedule II substance, as set forth in section
44 two hundred six of this article;
- 45 (30) Furethidine;
- 46 (31) Hydroxypethidine;
- 47 (32) Ketobemidone;

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

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

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

99 (23) Thebacon.

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

106 (1) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethyl-
107 1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

108 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-
109 dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

110 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-
111 dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

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

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

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

116 (5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-
117 methylphenethylamine; 2,5-DMA;

118 (6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

119 (7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

120 (8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-
121 methylphenethylamine; paramethoxyamphetamine; PMA;

122 (9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

123 (10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-
124 dimethoxy-alpha-methylphenethylamine; “DOM”; and “STP”;

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

150 plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of
151 such plant, its seeds or extracts;

152 (28) N-ethyl-3-piperidyl benzilate;

153 (29) N-methyl-3-piperidyl benzilate;

154 (30) Psilocybin;

155 (31) Psilocyn;

156 (32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the
157 plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, immediate
158 derivatives and their isomers with similar chemical structure and pharmacological activity such as
159 the following:

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

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

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

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

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

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

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

172 (36) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

173 (37) 4-methylmethcathinone (Mephedrone);

174 (38) 3,4-methylenedioxypropylvalerone (MDPV);

175 (39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

- 176 (40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)
- 177 (41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)
- 178 (42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)
- 179 (43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)
- 180 (44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)
- 181 (45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)
- 182 (46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)
- 183 (47) 2-(2,5-Dimethoxy-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, itsoptical 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,7,10,10atetrahydrobenzo [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) Naphthoyl indoles 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) Synthetic Phenethylamines (including their optical, positional, and geometric isomers,
268 salts and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers):

- 269 (A) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/2C-I-
270 NBOMe);
- 271 (B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-
272 C-NBOMe);
- 273 (C) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-
274 NBOMe);

275 (57) Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers,
276 esters and ethers):

- 277 (A) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);
- 278 (B) furanyl fentanyl;

279 (C) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-
280 47700);

281 (D) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-
282 4-yl)-N-phenylbutanamide, (butyryl fentanyl);

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

286 (58) Opioid Receptor Agonist (including its isomers, esters, ethers, salts, and salts of
287 isomers, esters and ethers):

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

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

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

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

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

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

306 (B) JWH 250;

307 (C) JWH 203;

308 (D) JWH 251;

309 (E) JWH 302.

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

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

314 (B) Cannabicyclohexanol;

315 (C) CP 55,940.

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

320 (A) AM 694;

321 (B) Pravadoline WIN 48,098;

322 (C) RCS 4;

323 (D) AM 679.

324 (65) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-
325 YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

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

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

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

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

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

343 (71) Tryptamines:

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

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

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

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

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

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

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

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

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

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

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

355 (72) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-
356 carboxamide (AB-CHMINACA);

357 (73) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-
358 PINACA);

359 (74) [1-(5-fluoropentyl)-1H-indazol-3-yl (naphthalen-1-yl)methanone (THJ-2201);

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

361 (76) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22);

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

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

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

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

373 (1) Mecloqualone;

374 (2) Methaqualone.

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

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

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

383 (3) Fenethylamine;

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

386 (methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1- one; alpha-

387 methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypropylvalerone and/or

388 mephedrone; 3,4-methylenedioxypropylvalerone (MPVD); ephedrone; N-methylcathinone;

389 methylcathinone; AL-464; AL-422; AL- 463 and UR1432;

390 (5) (+-) cis-4-methylaminorex; ((-) cis-4,5-dihydro-4-methyl- 5-phenyl-2-oxazoline);

391 (6) N-ethylamphetamine;

392 (7) N,N-dimethylamphetamine; also known as N,N-alpha- trimethyl-benzeneethanamine;

393 N,N-alpha-trimethylphenethylamine.

394 (8) Alpha-pyrrolidinopropiophenone, also known as alpha-PVP, optical isomers, salts and
395 salts of isomers.

396 (9) Substituted amphetamines:

397 (A) 2-Fluoroamphetamine

398 (B) 3-Fluoroamphetamine

399 (C) 4-Fluoroamphetamine

400 (D) 2-chloroamphetamine

401 (E) 3-chloroamphetamine

402 (F) 4-chloroamphetamine

403 (G) 2-Fluoromethamphetamine

404 (H) 3-Fluoromethamphetamine

405 (I) 4-Fluoromethamphetamine

406 (J) 4-chloromethamphetamine

- 407 (10) 4-methyl-N-ethylcathinone (4-MEC);
- 408 (11) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);
- 409 (12) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);
- 410 (13) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);
- 411 (14) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);
- 412 (15) 4-fluoro-N-methylcathinone (4-FMC);
- 413 (16) 3-fluoro-N-methylcathinone (3-FMC);
- 414 (17) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and
- 415 (18) Alpha-pyrrolidinobutiophenone (α -PBP).

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Unlawful manufacture, delivery, transport into state, or possession of fentanyl.

1 (a) For purposes of this section,

2 (1) "Controlled substance" shall have the same meaning as provided in subsection (e),
3 section one hundred one, article one of this chapter.

4 (2) "Fentanyl" refers to the substance identified in subdivision (9), subsection (c), section
5 two hundred six, article two of this chapter, and any analog or derivative thereof.

6 (b) Any person who violates the provisions of subsection (a), section four hundred one of
7 this article or section four hundred nine of this article in which fentanyl is a controlled substance
8 involved in the offense, either alone or in combination with another controlled substance, shall be
9 guilty of a felony, and upon conviction thereof, shall be punished in accordance with the following:

10 (1) If the net weight of fentanyl involved in the offense is less than one gram, such person
11 shall be imprisoned in a correctional facility not less than two nor more than ten years.

12 (2) If the net weight of fentanyl involved in the offense is one gram or more but less than
13 five grams, such person shall be imprisoned in a correctional facility not less than three nor more
14 than fifteen years.

15 (3) If the net weight of fentanyl involved in the offense is five grams or more, such person
16 shall be imprisoned in a correctional facility not less than four nor more than twenty years.

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


.....
Vice Chairman, House Committee


.....
Member Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.


.....
Clerk of the House of Delegates


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Clerk of the Senate


.....
Speaker of the House of Delegates


.....
President of the Senate

FILED
2017 APR 24 P 4: 24
OFFICE WEST VIRGINIA
SECRETARY OF STATE

The within is approved this the 24th
day of April 2017.


.....
Governor

PRESENTED TO THE GOVERNOR

APR 21 2017

Time 3:59 pm