

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Introduced**

## **Senate Bill 143**

BY SENATOR OJEDA

[Introduced January 9, 2019; Referred  
to the Committee on the Judiciary]

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

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

**ARTICLE 2. STANDARDS AND SCHEDULES.**

**§60A-2-204. Schedule I.**

1 (a) Schedule I shall consist of the drugs and other substances, by whatever official name,  
 2 common or usual name, chemical name, or brand name designated, listed in this section including  
 3 their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence  
 4 of such isomers, esters, ethers and salts is possible within the specific chemical designation.

5 (b) Opiates.

6 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl) -4-piperidiny]—  
 7 phenylacetamide);

8 Acetylmethadol;

9 Allylprodine;

10 Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-  
 11 acetylmethadol, levomethadyl acetate, or LAAM);

12 Alphameprodine;

13 Alphamethadol;

14 Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide;  
 15 1-(1-methyl-2-phenylethyl)-4-(( propanilido) piperidine);

16 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl- 4-piperidiny]—  
 17 phenylpropanamide);

- 18 Benzethidine;
- 19 Betacetylmethadol;
- 20 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4- piperidiny]-N-
- 21 phenylpropanamide);
- 22 Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-4-
- 23 piperidiny]-N-phenylpropanamide);
- 24 Betameprodine;
- 25 Betamethadol;
- 26 Betaprodine;
- 27 Clonitazene;
- 28 Dextromoramide;
- 29 Diampromide;
- 30 Diethylthiambutene;
- 31 Difenoxin;
- 32 Dimenoxadol;
- 33 Dimepheptanol;
- 34 Dimethylthiambutene;
- 35 Dioxaphetyl butyrate;
- 36 Dipipanone;
- 37 Ethylmethylthiambutene;
- 38 Etonitazene;
- 39 Etoxidine;
- 40 Furethidine;
- 41 Hydroxypethidine;
- 42 Ketobemidone;
- 43 Levomoramide;

- 44 Levophenacymorphan;
- 45 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4- piperidyl]-N-phenylpropanamide);
- 46 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4- piperidiny]—phenylpropanamide);
- 47 Morpheridine;
- 48 MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 49 Noracymethadol;
- 50 Norlevorphanol;
- 51 Normethadone;
- 52 Norpipanone;
- 53 Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2- phenethyl)-4-piperidiny] propanamide);
- 54 PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 55 Phenadoxone;
- 56 Phenampromide;
- 57 Phenomorphan;
- 58 Phenoperidine;
- 59 Piritramide;
- 60 Proheptazine;
- 61 Properidine;
- 62 Propiram;
- 63 Racemoramide;
- 64 Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4- piperidiny]-propanamide);
- 65 Tilidine;
- 66 Trimeperidine.
- 67 (c) Opium derivatives:
- 68 Acetorphine;
- 69 Acetyldihydrocodeine;

- 70 Benzylmorphine;
- 71 Codeine methylbromide;
- 72 Codeine-N-Oxide;
- 73 Cyprenorphine;
- 74 Desomorphine;
- 75 Dihydromorphine;
- 76 Drotebanol;
- 77 Etorphine (except HCl Salt);
- 78 Heroin;
- 79 Hydromorphenol;
- 80 Methyldesorphine;
- 81 Methyldihydromorphine;
- 82 Morphine methylbromide;
- 83 Morphine methylsulfonate;
- 84 Morphine-N-Oxide;
- 85 Myrophine;
- 86 Nicocodeine;
- 87 Nicomorphine;
- 88 Normorphine;
- 89 Pholcodine;
- 90 Thebacon.
- 91 (d) Hallucinogenic substances.
- 92 Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-1H-
- 93 indole-3-ethanamine; 3-(2- aminobutyl) indole; alpha-ET; and AET;
- 94 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-
- 95 dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

96 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-  
97 dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;  
98 N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the  
99 acronym 25B-NBOMe.

100 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe)  
101 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)  
102 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-  
103 methylphenethylamine; 2,5-DMA;  
104 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;  
105 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);  
106 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-  
107 methylphenethylamine; paramethoxyamphetamine; PMA;  
108 5-methoxy-3, 4-methylenedioxy-amphetamine;  
109 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-  
110 dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";  
111 3,4-methylenedioxy amphetamine;  
112 3,4-methylenedioxymethamphetamine (MDMA);  
113 3,4-methylenedioxy-N-ethylamphetamine (also known as ( ethyl-alpha-methyl-3,4  
114 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);  
115 N-hydroxy-3,4-methylenedioxyamphetamine (also known as ( hydroxy-alpha-methyl-3,4  
116 (methylenedioxy) phenethylamine, and ( hydroxy MDA);  
117 3,4,5-trimethoxy amphetamine;  
118 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);  
119 Alpha-methyltryptamine (other name: AMT);

120           Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-  
121 hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-  
122 dimethyltryptamine; mappine;

123           Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

124           Dimethyltryptamine; some trade or other names: DMT;

125           5-Methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);

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

128           Lysergic acid diethylamide;

129           ~~Marihuana;~~

130           Mescaline;

131           Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6,  
132 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

133           Peyote; meaning all parts of the plant presently classified botanically as *Lophophora*  
134 *williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such  
135 plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of  
136 such plant, its seeds or extracts;

137           N-ethyl-3-piperidyl benzilate;

138           N-methyl-3-piperidyl benzilate;

139           Psilocybin;

140           Psilocyn;

141           ~~Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or~~  
142 ~~in the resinous extractives of Cannabis, sp. and/or synthetic substances, immediate derivatives~~  
143 ~~and their isomers with similar chemical structure and pharmacological activity such as the~~  
144 ~~following:~~

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

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

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

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

150 Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-  
151 phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,  
152 cyclohexamine, PCE;

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

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

157 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

158 4-methylmethcathinone (Mephedrone);

159 3,4-methylenedioxypropylvalerone (MDPV);

160 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

161 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

162 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

163 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

164 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

165 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

166 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

167 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N)

168 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)

169 3,4-Methylenedioxy-N-methylcathinone (Methylone)

170 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7, its optical isomers, salts and  
171 salts of isomers



172 5-methoxy-N,N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-  
173 (dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)  
174 Alpha-methyltryptamine (other name: AMT)  
175 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT)  
176 Synthetic Cannabinoids as follows:  
177 2-[(1R,3S)-3-hydroxycyclohexyl]-5- (2-methyloctan-2-yl)phenol {also known as CP  
178 47,497 and homologues};  
179 rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl)phenol {also known as CP  
180 47,497-C8 homolog};  
181 [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-  
182 tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-210};  
183 (dexanabinol);  
184 (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-  
185 tetrahydrobenzol[c]chromen-1-ol) {also known as HU-211};  
186 1-Pentyl-3-(1-naphthoyl)indole {also known as JWH-018};  
187 1-Butyl-3-(1-naphthoyl)indole {also known as JWH-073};  
188 (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-015};  
189 (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};  
190 [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as  
191 JWH-200};  
192 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};  
193 2-((1S,2S,5S)-5-hydroxy-2- (3-hydroxypropyl)cyclohexyl) -5-(2-methyloctan-2-yl)phenol  
194 {also known as CP 55,940};  
195 (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-122};  
196 (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-398};  
197 (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};

198 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known as  
199 RCS-8};  
200 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);  
201 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201); and  
202 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694).  
203 Synthetic cannabinoids:  
204 CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-  
205 YL)phenol);  
206 HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10,  
207 10A-tetrahydrobenzo[C] chromen-1-OL)];  
208 HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-  
209 YL)-6A,7,10,10atetrahydrobenzo[ C]chromen-1-OL);  
210 JWH-018, 1-pentyl-3-(1-naphthoyl)indole;  
211 JWH-019, 1-hexyl-3-(1-naphthoyl)indole;  
212 JWH-073, 1-butyl-3-(1-naphthoyl)indole;  
213 JWH-200, (1-(2-morpholin-4-ylethyl)indol-3-yl)- Naphthalen-1-ylmethanone;  
214 JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl)indole.]  
215 Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-  
216 ADB);  
217 Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F-AMB);  
218 Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (FUB-  
219 AMB);  
220 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-APINACA);  
221 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide  
222 (ADB-FUBINACA);

- 223 Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate  
224 (MDMB-CHMICA);
- 225 Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate  
226 (MDMB-FUBINACA);
- 227 Tetrahydrocannabinols:  
228 DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.  
229 DELTA-6 CIS OR trans tetrahydrocannabinol and their optical isomers.  
230 DELTA-3,4 CIS or their trans tetrahydrocannabinol and their optical isomers.
- 231 Synthetic Phenethylamines
- 232 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-  
233 NBOMe);
- 234 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-C-  
235 NBOMe);
- 236 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-  
237 NBOMe);
- 238 Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers, esters  
239 and ethers):
- 240 N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);  
241 furanyl fentanyl;
- 242 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-  
243 47700);
- 244 N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-  
245 phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl);
- 246 N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known  
247 as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-  
248 hydroxythiofentanyl).

- 249 N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (acryl fentanyl)
- 250 N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (isobutyryl fentanyl)
- 251 N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (cyclopropyl fentanyl)
- 252 2-(2,4-dichlorophenyl)-N-((1S,2S)-2-(dimethylamino)cyclohexyl)-N-methylacetamide
- 253 (also known as U-48800)
- 254 Trans-3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methyl-benzamide (also known as
- 255 U-49900)
- 256 Trans-3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzeneacetamide (also
- 257 known as U-51754)
- 258 Opioid Receptor Agonist
- 259 AH-7921 (3,4-dichloro-N-(1dimethylamino)cyclohexylmethyl]benzamide).
- 260 Naphthoylindoles or any compound containing a 3-(-1- Naphthoyl) indole structure with
- 261 substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole
- 262 ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall
- 263 include the following:
- 264 JWH 015;
- 265 JWH 018;
- 266 JWH 019;
- 267 JWH 073;
- 268 JWH 081;
- 269 JWH 122;
- 270 JWH 200;
- 271 JWH 210;
- 272 JWH 398;
- 273 AM 2201;
- 274 WIN 55,212.

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

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

283 Naphthylmethylindenes or any compound containing a Naphthylideneindene structure  
284 with substitution at the 3-Position of the indene ring whether or not further substituted in the  
285 indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This  
286 shall include, but not be limited to, JWH 176.

287 Phenylacetylindoles or any compound containing a 3-Phenylacetylindole structure with  
288 substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole  
289 ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include  
290 the following:

291 RCS-8, SR-18 OR BTM-8;

292 JWH 250;

293 JWH 203;

294 JWH 251;

295 JWH 302.

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

299 CP 47,497 and its homologues and analogs;

300 Cannabicyclohexanol;

301 CP 55,940.

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

306 AM 694;

307 Pravadoline WIN 48,098;

308 RCS 4;

309 AM 679.

310 [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-  
311 naphthalenymethanone. This shall include WIN 55,212-2.

312 Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol  
313 structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051  
314 and JWH 133.

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

318 Tetramethylcyclopropylindoles or any compound containing A 3-  
319 tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring  
320 whether or not further substituted in the indole ring to any extent and whether or not substituted  
321 in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

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

323 Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as  
324 demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and  
325 V, not federal Food and Drug Administration approved drug or used within legitimate, approved

326 medical research. Since nomenclature of these substances is not internationally standardized,  
327 any immediate precursor or immediate derivative of these substances shall be covered.

328 Tryptamines:

329 5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT)

330 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT)

331 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)

332 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)

333 4-acetoxy-N,N-diisopropyltryptamine (4-AcO-DiPT)

334 5-methoxy- $\alpha$ -methyltryptamine (5-MeO-AMT)

335 4-methoxy-N,N-Dimethyltryptamine (4-MeO-DMT)

336 4-hydroxy Diethyltryptamine (4-HO-DET)

337 5- methoxy- N,N- diallyltryptamine (5-MeO-DALT)

338 4-acetoxy-N,N-Dimethyltryptamine (4-AcO DMT)

339 4-hydroxy Diethyltryptamine (4-HO-DET)

340 (e) Depressants.

341 Mecloqualone;

342 Methaqualone.

343 (f) Stimulants.

344 Aminorex; some other names: aminoxaphen; 2-amino-5- phenyl-2-oxazoline; or 4,5-  
345 dihydro-5-phenyl-2-oxazolamine;

346 Cathinone; some trade or other names: 2-amino-1-phenyl-1- propanone, alpha-  
347 aminopropiophenone, 2-aminopropiophenone and norephedrone;

348 Fenethylamine;

349 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)propiofenone; 2-(methylamino)-1-phenylpropan-1- one; alpha—  
352 methylaminopropiofenone; monomethylpropion; 3,4-methylenedioxypropiofenone and/or  
353 mephedrone; 3,4-methylenedioxypropiofenone (MPVD); ephedrone; N-methylcathinone;  
354 methylcathinone; AL-464; AL-422; AL- 463 and UR1432;  
355 (+-) cis-4-methylaminorex; ((+)-cis-4,5-dihydro-4-methyl- 5-phenyl-2-oxazolamine);  
356 N-ethylamphetamine;  
357 N,N-dimethylamphetamine; also known as N,N-alpha- trimethyl-benzeneethanamine;  
358 N,N-alpha-trimethylphenethylamine.  
359 Alpha-pyrrolidinopentiophenone, also known as alpha-PVP, optical isomers, salts and  
360 salts of isomers.  
361 Substituted amphetamines:  
362 2-Fluoroamphetamine  
363 3-Fluoroamphetamine  
364 4-Fluoroamphetamine  
365 2-chloroamphetamine  
366 3-chloroamphetamine  
367 4-chloroamphetamine  
368 2-Fluoromethamphetamine  
369 3-Fluoromethamphetamine  
370 4-Fluoromethamphetamine  
371 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 N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts,  
375 and salts of isomers.



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

378 N-benzylpiperazine, also known as BZP.

379 Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);

380 4-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]-  
381 butyramide);

382 Isobutyryl fentanyl (2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-propanamide);

383 Methoxyacetyl fentanyl (2-methoxy-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-  
384 acetamide);

385 3-methylbutyryl fentanyl (N-[3-methyl-1-(2-phenylethyl)piperidin-4-yl]-N-  
386 phenylbutyramide);

387 4-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-  
388 yl)butyramide);

389 Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)piperidin-4-yl]-acetamide);

390 Tetrahydrofuran fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-  
391 carboxamide);

392 Valeryl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]pentanamide).

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

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

399 By substitution in the ring system to any extent with Alkyl, alkylendioxy, alkoxy, haloalkyl,  
400 hydroxyl or halide Substituents whether or not further substituted in the ring system by one or  
401 more other univalent substituents.

402 By substitution at the 3-position with an acyclic alkyl substituent.

403 By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl  
404 groups.

405 By inclusion of the 2-amino nitrogen atom in a cyclic structure.

406 Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as  
407 demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and  
408 V, not federal Food and Drug Administration approved drug or used within legitimate, approved  
409 medical research.

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

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

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

3 Any person who violates this subsection with respect to:

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

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

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

15 (iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction  
16 ~~thereof~~, ~~may~~ shall be confined in jail for not less than six months nor more than one year, or fined

17 not more than \$5,000, or both fined and confined: *Provided*, That for offenses relating to any  
18 substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established  
19 in ~~said~~ that article apply.

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

22 Any person who violates this subsection with respect to:

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

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

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

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

39 (c) It is unlawful for any person knowingly or intentionally to possess a controlled  
40 substance unless the substance was obtained directly from, or pursuant to, a valid prescription or  
41 order of a practitioner while acting in the course of his professional practice, or except as  
42 otherwise authorized by this act. Any person who violates this subsection is guilty of a

43 misdemeanor and, disposition may be made under §60A-4-407 of this code, subject to the  
44 limitations ~~specified in said section~~ therein, or upon conviction, such person may be confined in  
45 jail not less than 90 days nor more than six months, or fined not more than \$1,000, or both fined  
46 and confined. ~~Provided, That notwithstanding any other provision of this act to the contrary, any~~  
47 ~~first offense for possession of Synthetic Cannabinoids as defined by subdivision (32) subsection,~~  
48 ~~(d), section 101, article 1 of this chapter; 3,4-methylenedioxypropylvalerone (MPVD) and 3,4-~~  
49 ~~methylenedioxypropylvalerone and/or mephedrone as defined in subsection (f), section 101, article~~  
50 ~~1 of this chapter; or less than 15 grams of marijuana, shall be disposed of under said section~~

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

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

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

59 (3) Any person who violates this subsection is guilty of a misdemeanor and, upon  
60 conviction thereof, ~~may~~ shall be ~~imprisoned~~ confined in jail for not less than six months nor more  
61 than one year, or fined not more than \$5,000, or both fined and confined. Any person being 18  
62 years old or more who violates §60A-4-401(d)(1) of this code and, in so doing, distributes or  
63 delivers an imitation controlled substance to a minor child who is at least three years younger  
64 than such person is guilty of a felony and, upon conviction thereof, may be imprisoned in ~~the a~~  
65 state correctional facility for not less than one year nor more than three years, or fined not more  
66 than \$10,000, or both fined and imprisoned.

67 (4) The provisions of §60A-4-401(d)(1) of this code ~~shall~~ do not apply to a practitioner who  
68 administers or dispenses a placebo.

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

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

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

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

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

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

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

16 (b) (1) Notwithstanding §60A-4-417(a) of this code, a person may not possess marijuana  
17 in public within this state and, upon conviction thereof, is guilty as follows:

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

21 (B) Of a misdemeanor for four ounces or less and more than one ounce, punishable by a

22 fine of up to \$2,500 or confinement in jail for up to 30 days, or both fined and confined, for a first  
23 offense, a fine of up to \$5,000 or confinement in jail for up to 6 months, or both fined and confined,  
24 for a second offense, and a fine of up to \$15,000 or confinement in jail for up to one year, or both  
25 fined and confined; or

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

28 (2) Notwithstanding §60A-4-417(a) of this code, a person may not possess marijuana with  
29 the intent to distribute and, upon conviction, is guilty as follows:

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

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

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

39 (3) Notwithstanding §60A-4-417(a) of this code, a person may not distribute marijuana in  
40 exchange for money or other consideration and, upon conviction thereof, is guilty of a felony  
41 punishable by a fine of up to \$50,000 or imprisonment for one to five years, or both fined and  
42 imprisoned.

43 (4) Notwithstanding §60A-4-417(a) of this code, a person may not grow, harvest or  
44 process, upon property that is not their principal residence any amount of cannabis plants, nor  
45 may a person grow, harvest or process upon property that constitutes the person's principal  
46 residence, more than eight cannabis plants and, upon conviction thereof, is guilty of a felony  
47 punishable by a fine of up to \$50,000 or imprisonment in a state correctional facility for one to five

48 years, or both fined and imprisoned.

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

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

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

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

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

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

73 (f) Nothing in this section may be construed to require any government agency or office,

74 or any employer, to permit or accommodate the use, consumption, possession, transfer, display,  
75 transportation, sale or growing of marijuana in the workplace or to affect the ability of any such  
76 agency, office, or employer to establish and enforce policies restricting the use of marijuana by  
77 employees.

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

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

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

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

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



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