

1 **ENGROSSED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2505**

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

7
8 (Originating in the House Committee on the Judiciary)

9 [January 27, 2011]

10

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

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

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

22 **ARTICLE 2. STANDARDS AND SCHEDULES.**

23 **§60A-1-101. Definitions.**

24 As used in this act:

25 (a) "Administer" means the direct application of a controlled

1 substance whether by injection, inhalation, ingestion or any other
2 means to the body of a patient or research subject by:

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

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

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

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

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

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

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

25 ~~(f)~~ (g) "Imitation controlled substance" means: (1) A
26 controlled substance which is falsely represented to be a different

1 controlled substance; (2) a drug or substance which is not a
2 controlled substance but which is falsely represented to be a
3 controlled substance; or (3) a controlled substance or other drug
4 or substance or a combination thereof which is shaped, sized,
5 colored, marked, imprinted, numbered, labeled, packaged,
6 distributed or priced so as to cause a reasonable person to believe
7 that it is a controlled substance.

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

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

18 ~~(i)~~ (j) "Dispenser" means a practitioner who dispenses.

19 ~~(j)~~ (k) "Distribute" means to deliver, other than by
20 administering or dispensing, a controlled substance, a counterfeit
21 substance or an imitation controlled substance.

22 ~~(k)~~ (l) "Distributor" means a person who distributes.

23 ~~(l)~~ (m) "Drug" means: (1) Substances recognized as drugs in
24 the official "United States Pharmacopoeia, official Homeopathic
25 Pharmacopoeia of the United States or official National Formulary",
26 or any supplement to any of them; (2) substances intended for use

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

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

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

23 ~~(n)~~ (p) "Manufacture" means the production, preparation,
24 propagation, compounding, conversion or processing of a controlled
25 substance, either directly or indirectly or by extraction from
26 substances of natural origin, or independently by means of chemical

1 synthesis, or by a combination of extraction and chemical
2 synthesis, and includes any packaging or repackaging of the
3 substance or labeling or relabeling of its container, except that
4 this term does not include the preparation, compounding, packaging
5 or labeling of a controlled substance:

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

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

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

23 ~~(p)~~ (r) "Narcotic drug" means any of the following, whether
24 produced directly or indirectly by extraction from substances of
25 vegetable origin or independently by means of chemical synthesis,
26 or by a combination of extraction and chemical synthesis:

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

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

7 (3) Opium poppy and poppy straw.

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

14 ~~(q)~~ (s) "Opiate" means any substance having an addiction-
15 forming or addiction-sustaining liability similar to morphine or
16 being capable of conversion into a drug having addiction-forming or
17 addiction-sustaining liability. It does not include, unless
18 specifically designated as controlled under section two hundred
19 one, article two of this chapter, the dextrorotatory isomer of
20 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It
21 does not include its racemic and levorotatory forms.

22 ~~(r)~~ (t) "Opium poppy" means the plant of the species "Papaver
23 somniferum L.", except its seeds.

24 ~~(s)~~ (u) "Person" means individual, corporation, government or
25 governmental subdivision or agency, business trust, estate, trust,
26 partnership or association, or any other legal entity.

1 ~~(t)~~ (v) "Placebo" means an inert medicament or preparation
2 administered or dispensed for its psychological effect, to satisfy
3 a patient or research subject or to act as a control in
4 experimental series.

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

7 ~~(v)~~ (x) "Practitioner" means:

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

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

17 ~~(w)~~ (y) "Production" includes the manufacture, planting,
18 cultivation, growing or harvesting of a controlled substance.

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

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

1 **§60A-2-204. Schedule I.**

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

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

12 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)
13 -4-piperidinyl]-N-phenylacetamide);

14 (2) Acetylmethadol;

15 (3) Allylprodine;

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

18 (5) Alphameprodine;

19 (6) Alphamethadol;

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

23 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-
24 4-piperidinyl]-N-phenylpropanamide);

25 (9) Benzethidine;

26 (10) Betacetylmethadol;

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

1 piperidyl]-N-phenylpropanamide);
2 (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4-
3 piperidinyl]-N-phenylpropanamide);
4 (36) Morpheridine;
5 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
6 (38) Noracymethadol;
7 (39) Norlevorphanol;
8 (40) Normethadone;
9 (41) Norpipanone;
10 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
11 phenethyl)-4-piperidinyl] propanamide);
12 (43) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
13 (44) Phenadoxone;
14 (45) Phenampromide;
15 (46) Phenomorphan;
16 (47) Phenoperidine;
17 (48) Piritramide;
18 (49) Proheptazine;
19 (50) Properidine;
20 (51) Propiram;
21 (52) Racemoramide;
22 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-
23 piperidinyl]-propanamide);
24 (54) Tilidine;
25 (55) Trimeperidine.
26 (c) Opium derivatives. -- Unless specifically excepted or unless

1 listed in another schedule, any of the following opium immediate
2 derivatives, its salts, isomers and salts of isomers whenever the
3 existence of such salts, isomers and salts of isomers is possible
4 within the specific chemical designation:

- 5 (1) Acetorphine;
- 6 (2) Acetyldihydrocodeine;
- 7 (3) Benzylmorphine;
- 8 (4) Codeine methylbromide;
- 9 (5) Codeine-N-Oxide;
- 10 (6) Cyprenorphine;
- 11 (7) Desomorphine;
- 12 (8) Dihydromorphine;
- 13 (9) Drotebanol;
- 14 (10) Etorphine (except HCl Salt);
- 15 (11) Heroin;
- 16 (12) Hydromorphenol;
- 17 (13) Methyldesorphine;
- 18 (14) Methyldihydromorphine;
- 19 (15) Morphine methylbromide;
- 20 (16) Morphine methylsulfonate;
- 21 (17) Morphine-N-Oxide;
- 22 (18) Myrophine;
- 23 (19) Nicocodeine;
- 24 (20) Nicomorphine;
- 25 (21) Normorphine;
- 26 (22) Pholcodine;

1 (23) Thebacon.

2 (d) Hallucinogenic substances. -- Unless specifically excepted or
3 unless listed in another schedule, any material, compound, mixture
4 or preparation, which contains any quantity of the following
5 hallucinogenic substances, or which contains any of its salts,
6 isomers and salts of isomers, whenever the existence of such salts,
7 isomers, and salts of isomers is possible within the specific
8 chemical designation (for purposes of this subsection only, the
9 term "isomer" includes the optical, position and geometric
10 isomers):

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

14 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names:
15 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

16 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names:
17 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl
18 DOB; 2C-B, Nexus;

19 (4) 2,5-dimethoxyamphetamine; some trade or other names:
20 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

21 (5) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names:
22 DOET;

23 (6) 4-methoxyamphetamine; some trade or other names:
24 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

25 (7) 5-methyloxy-3, 4-methylenedioxy-amphetamine;

26 (8) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names:

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

1 [b,d] pyran; Synhexyl;

2 (22) Peyote; meaning all parts of the plant presently classified
3 botanically as *Lophophora williamsii* Lemaire, whether growing or
4 not, the seeds thereof, any extract from any part of such plant,
5 and every compound, manufacture, salts, immediate derivative,
6 mixture or preparation of such plant, its seeds or extracts;

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

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

9 (25) Psilocybin;

10 (26) Psilocyn;

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

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

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

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

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

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

1 N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;
2 (29) Pyrrolidine analog of phencyclidine; some trade or other
3 names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
4 (30) Thiophene analog of phencyclidine; some trade or other names:
5 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of
6 phencyclidine; TPCP, TCP;
7 (31) 1[1-(2-thienyl)cyclohexyl]pyrroldine; some other names: TCPy.
8 (32) Synthetic Cannabinoids as follows:
9 (a) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol
10 {also known as CP 47,497 and homologues};
11 (b) rel-2-[(1S,3R)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-
12 yl)phenol {also known as CP 47,497-C8 homolog};
13 (c) [(6aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-
14 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-
15 210};
16 (d) (dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
17 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzol[c]chromen-1-ol)
18 {also known as HU-211};
19 (e) 1-Pentyl-3-(1-naphthoyl)indole {also known as JWH-018};
20 (f) 1-Butyl-3-(1-naphthoyl)indole {also known as JWH-073};
21 (g) (2-methyl-1-propyl-1H-indol-3-yl)-1naphthalenyl-methanone {also
22 known as JWH-015};
23 (h) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as
24 JWH-019};
25 (i) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-
26 methanone {also known as JWH-200};

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

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

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

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

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

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

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

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

23 (1) Mecloqualone;

24 (2) Methaqualone.

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

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

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

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

9 (3) Fenethylamine;

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

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

20 (6) N-ethylamphetamine;

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

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

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

1 its optical isomers, salts, and salts of isomers.

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

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

5 **§60A-4-401. Prohibited acts A; penalties.**

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

9 Any person who violates this subsection with respect to:

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

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

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

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

1 five thousand dollars, or both: *Provided*, That for offenses
2 relating to any substance classified as Schedule V in article ten
3 of this chapter, the penalties established in said article apply.

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

7 Any person who violates this subsection with respect to:

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

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

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

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

1 offenses relating to any substance classified as Schedule V in
2 article ten of this chapter, the penalties established in said
3 article apply.

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

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

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

25 (2) To create, possess or sell or otherwise transfer any
26 equipment with the intent that such equipment shall be used to

1 apply a trademark, trade name, or other identifying mark, imprint,
2 number or device, or any likeness thereof, upon a counterfeit
3 substance, an imitation controlled substance, or the container or
4 label of a counterfeit substance or an imitation controlled
5 substance.

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

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