

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
FIFTY-SECOND DAY

Charleston, West Virginia, Friday, March 31, 2017

The Senate met at 11 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Reverend Father Leon Alexander, Saint John XXIII Pastoral Center, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Douglas E. Facemire, a senator from the twelfth district.

Pending the reading of the Journal of Thursday, March 30, 2017,

At the request of Senator Takubo, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 113, Authorizing DEP promulgate legislative rules.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

Eng. Com. Sub. for House Bill 2459, Relating to regulation of health care and the certificate of need process.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2708—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that the developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person over the age of eighteen years; and providing criminal penalties for violation of this section of the code.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2759—A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-8 of said code; to amend and reenact §5A-10-6 of said code; and to amend said code by adding thereto a new article, designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all relating to creating Statewide Interoperable Radio Network; establishing short title; defining terms; establishing objectives and purpose; creating position of Statewide Interoperable Coordinator; prescribing duties for Statewide Interoperability Coordinator; creating Statewide Interoperability Executive Committee; prescribing duties for Statewide Interoperability Executive committee; creating the Regional Interoperability Committee; providing for disposition of assets and staffing of Statewide Interoperable Radio Network; establishing special revenue account for Statewide Interoperable Radio Network; exempting Statewide Interoperable Radio Network from certain Purchasing Division and Office of Technology requirements; directing any revenue from certain leases to new special revenue account; and authorizing emergency and legislative rulemaking.

Referred to the Committee on Finance.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on March 29, 2017, he had approved **Enr. Committee Substitute for Senate Bill 302**; and on March 30, 2017, he had approved **Enr. House Bill 2300, Enr. Committee Substitute for House Bill 2678 and Enr. House Bill 2766**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 29th day of March, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2811), Relating to the definition of above ground storage tanks.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Concurrent Resolution 51 (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study all aspects of implementing Return-to-Learn protocols for elementary and secondary education students and higher education students who have suffered a concussion.

Whereas, The Centers for Disease Control and Prevention defines concussion as a type of traumatic brain injury caused by a bump, blow or jolt to the head or by a hit to the body that causes the head and brain to move rapidly back and forth; and

Whereas, Students who experience a concussion are more successful when provided adaptive academic accommodations within the first 28 days after an injury; and

Whereas, The West Virginia University Center for Excellence in Disabilities has developed Return-to-Learn recommendations for education institutions to increase the awareness of concussion as a brain injury that requires coordinated management for the best possible student outcomes; and

Whereas, Some of these recommendations require the creation of a concussion management team any time a student suffers a concussion; requires the concussion management team to meet weekly; prohibits return to participation in regular classroom activities without adaptive academic accommodations until authorized by the licensed health care professional and the concussion management team; and requires annual concussion management team training; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study all aspects of implementing Return-to-Learn protocols for elementary and secondary education students and higher education students who have suffered a concussion; and, be it

Further Resolved, That the study include the benefits of implementing those protocols; overcoming limits on time in implementing the protocols; coordinating the protocols with any Section 504 plan requirements; determining whether there would be any cost associated with the training requirements or employee time if additional duties must be performed outside of the regular workday; and determining whether the protocols should apply to both public and private schools; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Kenny Mann,
Chair.

On motion of Senator Ferns, the resolution (S. C. R. 51) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 2119, Repealing West Virginia Health Benefit Exchange Act.

Eng. House Bill 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth.

Eng. House Bill 2518, Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations.

And,

Eng. House Bill 2653, Extending the Multi State Real-Time Tracking System.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Tom Takubo,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2303, Increasing criminal penalties for littering.

And has amended same.

Eng. Com. Sub. for House Bill 2364, Prohibiting electioneering within or near early voting locations during early voting periods.

And has amended same.

Eng. Com. Sub. for House Bill 2404, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims.

And has amended same.

Eng. Com. Sub. for House Bill 2479, Uniform Deployed Parents Custody and Visitation Act.

And has amended same.

Eng. Com. Sub. for House Bill 2526, Classifying additional drugs to Schedules I, II, IV and V of controlled substances.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2731, Clarifying civil actions heard in circuit court.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 2427, Requiring agencies listed in the online state phone directory to update certain employee information.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 2446, Relating to the requirement that all executive branch agencies maintain a website that contains specific information.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Gaunch, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. Com. Sub. for House Bill 2471, Relating to insurance coverage for breast cancer screening.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Banking and Insurance pending.

Senator Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2475, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents.

And,

Eng. Com. Sub. for House Bill 2586, Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mike Hall,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2509, Relating to the practice of telemedicine.

With an amendment from the Committee on Health and Human Resources pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2519, Medicaid program compact.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2739, Relating to supplemental Medicaid provider reimbursement.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Tom Takubo,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 2522, Nurse licensure compact.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2555, Relating to tax credits for apprenticeship training in construction trades.

And has amended same.

And,

Eng. House Bill 2856, Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Mike Hall,
Chair.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 2601, Relating to municipal policemen's or municipal firemen's pension and relief funds.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Pensions pending.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 2603, Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more.

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,
Chair.

On motion of Senator Gaunch, the bill (Eng. Com. Sub. for H. B. 2603) contained in the foregoing report from the Committee on Pensions was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2619, Risk Management and Own Risk and Solvency Assessment Act.

With amendments from the Committee on Banking and Insurance pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2676, Transferring the Security office under the Division of Culture and History to the Division of Protective Services.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 2706, Authorizing legislative rules regarding higher education.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Kenny Mann,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Tom Takubo,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2767, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 2796, Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2939, Relating to the sale of items in the State Police Academy post exchange to the public.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2948, Establishing timelines for taking final action on certain permits.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2949, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

Senators Prezioso, Stollings, Beach, Plymale and Boso offered the following resolution:

Senate Resolution 65—Reaffirming support for Taiwan's meaningful participation and contribution in international organizations, and for strengthening and expanding sister-state ties between the State of West Virginia and Taiwan.

Whereas, Taiwan shares the common values of freedom, democracy, human rights and the rule of law with the United States and the state of West Virginia; and

Whereas, In 2016 Taiwan held its sixth direct presidential election and inaugurated Dr. Tsai Ing-wen as its first female president in a peaceful transition of power, demonstrating the strength and vitality of its democratic system and showcasing Taiwan as a beacon of democracy for Asia and beyond; and

Whereas, August 4, 2017, will mark the 37th anniversary of the sister-state relationship between West Virginia and Taiwan; the sister-state relationship with Taiwan has been strengthened through the efforts of the Taipei Economic and Cultural Representative Office, resulting in better mutual understanding and enhancing the friendship, trust, and cooperation between West Virginia and Taiwan; and

Whereas, The United States is Taiwan's second-largest trading partner and second-largest destination of Taiwan outward investment; Taiwan is the tenth-largest trading partner of the United States, with bilateral trade reaching \$65.3 billion in 2016; eighth-largest export destination for U. S. agricultural goods; and overall the fourteenth-largest export market; and

Whereas, In 2016, West Virginia exported more than \$29.6 million to Taiwan, making it our seventh-largest Asian export market and eighteenth-largest export market in the world,

demonstrating that Taiwan is not only a friendly sister-state of West Virginia but also an important trading partner; and

Whereas, By working together with Taiwan, West Virginia welcomes all opportunities for an even closer economic partnership to increase the trade and investment through signing of a U. S. Taiwan Free Trade Agreement, to boost greater West Virginia exports to Taiwan and to enhance the special sister-state bond between West Virginia and Taiwan, resulting in further cultural, educational and business exchanges between the citizens of both nations; and

Whereas, Taiwan and the U. S. have combined efforts to address regional and global challenges under the mechanisms of U. S. Taiwan Global Cooperation and Training Framework, and jointly conduct capacity building programs for regional experts in areas of public health, female empowerment, energy efficiency and e-commerce; and

Whereas, Taiwan has been proven to be a valuable contributor in a broad range of global issues which is necessary to be granted access to meaningfully participate in various international organizations including the World Health Organization, International Civil Aviation Organization, United Nations Framework Convention on Climate Change and International Criminal Police Organization; therefore, be it

Resolved by the Senate:

That the Senate hereby reaffirms support for Taiwan's meaningful participation and contribution in international organizations, and for strengthening and expanding sister-state ties between the State of West Virginia and Taiwan; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials from Taiwan.

At the request of Senator Prezioso, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with and adopted.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Prezioso and Takubo regarding the adoption of Senate Resolution 65 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2679, Relating to the possession of firearms in parks and park facilities.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2721, Removing the cost limitation on projects completed by the Division of Highways.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2721) passed.

On motion of Senator Hall, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2721—A Bill to amend and reenact §17-27-5 and §17-27-9 of the Code of West Virginia, 1931, as amended, all relating to the public-private transportation facilities act; removing the cost limitation on projects completed by the Division of Highways; and eliminating the sunset provision.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2722, Eliminating the financial limitations on utilizing the design-build program for highway construction.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2722) passed.

On motion of Senator Hall, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2722—A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating to eliminating the financial limitations on utilizing the Highway Design-Build Program for highway construction; and removing obsolete language.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3106, Relating to increasing the number of limited video lottery terminals.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3106 pass?”

On the passage of the bill, the yeas were: Blair, Boso, Clements, Cline, Facemire, Ferns, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel and Carmichael (Mr. President)—27.

The nays were: Beach, Boley, Gaunch, Ojeda, Prezioso and Unger—6.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3106) passed with its title.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2329, Prohibiting the production, manufacture or possession of fentanyl.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

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

ARTICLE 1. DEFINITIONS.

§60A-1-101. Definitions.

As used in this act:

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

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

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

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

(c) “Analogue” means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.

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

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

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

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

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

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

(j) “Dispenser” means a practitioner who dispenses.

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

(l) “Distributor” means a person who distributes.

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

(n) “Fentanyl analog or derivative” means any substance which has a chemical structure which is substantially similar to the chemical structure of fentanyl, including any of its salts, isomers, or salts of isomers, including any chemical compound or mixture. For purposes of this chapter, the

term “fentanyl derivative or analog” includes any fentanyl analog that is not otherwise scheduled in this chapter.

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

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

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

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

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

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

~~(t)~~ (s) “Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

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

(3) Opium poppy and poppy straw.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-204. Schedule I.

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

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the

specific chemical designation (for purposes of subdivision ~~(34)~~ (35) of this subsection only, the term isomer includes the optical and geometric isomers):

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

(2) Acetylmethadol;

(3) Allylprodine;

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

(5) Alphameprodine;

(6) Alphamethadol;

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

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

(9) Benzethidine;

(10) Betacetylmethadol;

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

(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxyin;

(21) Dimenoxadol;

(22) Dimepheptanol;

- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxeridine;

(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: Provided, That fentanyl remains a Schedule II substance, as set forth in section two hundred six of this article;

- ~~(29)~~ (30) Furethidine;
- ~~(30)~~ (31) Hydroxypethidine;
- ~~(31)~~ (32) Ketobemidone;
- ~~(32)~~ (33) Levomoramide;
- ~~(33)~~ (34) Levophenacymorphan;
- ~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- ~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4-piperidiny]—phenylpropanamide);
- ~~(36)~~ (37) Morpheridine;
- ~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- ~~(38)~~ (39) Noracymethadol;
- ~~(39)~~ (40) Norlevorphanol;
- ~~(40)~~ (41) Normethadone;
- ~~(41)~~ (42) Norpipanone;
- ~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide);
- ~~(43)~~ (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- ~~(44)~~ (45) Phenadoxone;
- ~~(45)~~ (46) Phenampromide;

- ~~(46)~~ (47) Phenomorphan;
- ~~(47)~~ (48) Phenoperidine;
- ~~(48)~~ (49) Piritramide;
- ~~(49)~~ (50) Proheptazine;
- ~~(50)~~ (51) Properidine;
- ~~(51)~~ (52) Propiram;
- ~~(52)~~ (53) Racemoramide;
- ~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4- piperidinyl]-propanamide);
- ~~(54)~~ (55) Tilidine;
- ~~(55)~~ (56) Trimeperidine.

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

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except HCl Salt);
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;

- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) 3,4-methylenedioxy amphetamine;

(12) 3,4-methylenedioxymethamphetamine (MDMA);

(13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

(14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);

(15) 3,4,5-trimethoxy amphetamine;

(15) (16) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

(17) Alpha-methyltryptamine (other name: AMT);

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

(19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

(20) Dimethyltryptamine; some trade or other names: DMT;

(21) 5-Methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);

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

(23) Lysergic acid diethylamide;

(24) Marihuana;

(25) Mescaline;

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

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

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

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

(30) Psilocybin;

(31) Psilocyn;

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

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

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

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

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

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

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

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

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

(37) 4-methylmethcathinone (Mephedrone);

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

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

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

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

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

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

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

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

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

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

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

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

(49) (2,5-dimethoxy-4-(n)-propyltghiophenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers

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

(51) Alpha-methyltryptamine (other name: AMT)

(52) 5-methoxy-N ,N-diisopropyltryptamine (other name: 5-MeO-DIPT)

(53) Synthetic Cannabinoids as follows:

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

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

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

(D) (dexanabinol);

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo

[c]chromen-1-ol) {also known as HU-211};

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

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

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

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

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

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

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

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

(M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-

398;

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

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

(P) 1-pentyl-3-[1-(4-methoxynaphthoyl)] indole (JWH-081);

(Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and

(R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).

(54) Synthetic cannabinoids or any material, compound, mixture or preparation which contains any quantity of the following substances, including their analogues, congeners, homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as follows:

(A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL) phenol);

(B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10,10A-tetrahydrobenzo[C] chromen-1-OL)];

(C) HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10 atetrahydrobenzo [C]chromen-1-OL);

(D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;

(E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;

(F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;

(G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)- Naphthalen-1-ylmethanone;

(H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.]

(55) Synthetic cannabinoids including any material, compound, mixture or preparation that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug Administration approved drug or used within legitimate and approved medical research and which contains any quantity of the following substances, their salts, isomers, whether optical positional or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless specifically exempted, whenever the existence of these salts, isomers, analogues, homologues and salts of isomers, analogues and homologues if possible within the specific chemical designation:

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

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

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

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

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

(i) JWH 015;

(ii) JWH 018;

(iii) JWH 019;

(iv) JWH 073;

(v) JWH 081;

(vi) JWH 122;

(vii) JWH 200;

(viii) JWH 210;

(ix) JWH 398;

(x) AM 2201;

(xi) WIN 55,212.

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

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

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

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

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

(B) JWH 250;

(C) JWH 203;

(D) JWH 251;

(E) JWH 302.

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

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

(B) Cannabicyclohexanol;

(C) CP 55,940.

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

(A) AM 694;

(B) Pravadoline WIN 48,098;

(C) RCS 4;

(D) AM 679.

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

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

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

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

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

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

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

(68) Tryptamines:

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

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

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

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

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

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

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

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

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

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

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

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

(1) Mecloqualone;

(2) Methaqualone.

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

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

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

(3) Fenethylamine;

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

(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha—methylaminopropiofenone; monomethylpropion; 3,4-methylenedioxypropylvalerone and/or mephedrone; 3,4-methylenedioxypropylvalerone (MPVD); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432;

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

(6) N-ethylamphetamine;

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

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

(9) Substituted amphetamines:

(A) 2-Fluoroamphetamine

(B) 3-Fluoroamphetamine

(C) 4-Fluoroamphetamine

(D) 2-chloroamphetamine

(E) 3-chloroamphetamine

(F) 4-chloroamphetamine

(G) 2-Fluoromethamphetamine

(H) 3-Fluoromethamphetamine

(I) 4-Fluoromethamphetamine

(J) 4-chloromethamphetamine

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

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

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

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

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

(1) Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research,

structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

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

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

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

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

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

ARTICLE 4. OFFENSES AND PENALTIES.

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

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

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

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

Following discussion,

On motion of Senator Trump, the bill (Eng. Com. Sub. for H. B. 2329) was advanced to third reading with the Judiciary committee amendment pending and the right reserved to consider other amendments to the bill on that reading.

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Woelfel regarding the adoption of the Judiciary committee amendment to Engrossed Committee Substitute for House Bill 2329 were ordered printed in the Appendix to the Journal.

Eng. House Bill 2878, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

Eng. Com. Sub. for House Bill 2180, Authorizing the issuance of special "In God We Trust" motor vehicle registration plates.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Mann.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Mann were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Saturday, April 1, 2017, at 9 a.m.

SENATE CALENDAR

**Saturday, April 01, 2017
9:00 AM**

SPECIAL ORDER OF BUSINESS Saturday, April 08, 2017 – 11:00 AM

Consideration of executive nominations

THIRD READING

- Eng. Com. Sub. for H. B. 2329 - Prohibiting the production, manufacture or possession of fentanyl - (Amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2679 - Relating to the possession of firearms in parks and park facilities - (Com. title amend. pending)
- Eng. H. B. 2878 - Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply

SECOND READING

- Eng. Com. Sub. for H. B. 2180 - Authorizing the issuance of special "In God We Trust" motor vehicle registration plates - (Com. amend. and title amend. pending)

FIRST READING

- Eng. H. B. 2119 - Repealing West Virginia Health Benefit Exchange Act
- Eng. H. B. 2188 - Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth
- Eng. Com. Sub. for H. B. 2303 - Increasing criminal penalties for littering - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2364 - Prohibiting electioneering within or near early voting locations during early voting periods - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2404 - Barring persons who are convicted of certain criminal offenses from acquiring property from their victims - (Com. amend. pending)
- Eng. H. B. 2427 - Requiring agencies listed in the online state phone directory to update certain employee information
- Eng. H. B. 2446 - Relating to the requirement that all executive branch agencies maintain a website that contains specific information - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2475 - Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents

Eng. Com. Sub. for H. B. 2479 - Uniform Deployed Parents Custody and Visitation Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2509 - Relating to the practice of telemedicine - (Com. amend. and title amend. pending)

Eng. H. B. 2518 - Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations

Eng. Com. Sub. for H. B. 2519 - Medicaid program compact - (Com. title amend. pending)

Eng. H. B. 2522 - Nurse licensure compact

Eng. Com. Sub. for H. B. 2526 - Classifying additional drugs to Schedules I, II, IV and V of controlled substances - (Com. amend. pending)

Eng. H. B. 2548 - Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer

Eng. Com. Sub. for H. B. 2555 - Relating to tax credits for apprenticeship training in construction trades - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 2586 - Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board

Eng. Com. Sub. for H. B. 2619 - Risk Management and Own Risk and Solvency Assessment Act - (Com. amend. and title amend. pending)

Eng. H. B. 2653 - Extending the Multi State Real-Time Tracking System

Eng. Com. Sub. for H. B. 2676 - Transferring the Security office under the Division of Culture and History to the Division of Protective Services

Eng. H. B. 2706 - Authorizing legislative rules regarding higher education

Eng. Com. Sub. for H. B. 2731 - Clarifying civil actions heard in circuit court - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2739 - Relating to supplemental Medicaid provider reimbursement - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2767 - Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks - (Com. amend. and title amend. pending)

Eng. H. B. 2796 - Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services

Eng. H. B. 2856 - Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2939 - Relating to the sale of items in the State Police Academy post exchange to the public

Eng. Com. Sub. for H. B. 2948 - Establishing timelines for taking final action on certain permits

Eng. Com. Sub. for H. B. 2949 - Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Saturday, April 1, 2017

30 Minutes Upon
Adjournment of
Senate Floor Session

Education

(Room 451M)

30 Minutes Upon
Adjournment of
Senate Floor Session

Government Organization

(Room 208W)