

**CONTROLLED SUBSTANCE MODIFICATIONS**

2011 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill modifies provisions relating to the Utah Controlled Substances Act by creating a controlled class of listed synthetic cannabinoid substances found in products often referred to as "spice."

**Highlighted Provisions:**

This bill:

- ▶ expands the definition of a controlled substance to include a list of synthetic equivalent cannabinoid substances and their analogs and homologs found in products commonly referred to as "spice;"
- ▶ clarifies that the tetrahydrocannabinols in Schedule I of the Utah Controlled Substances Act include those both naturally and synthetically derived;
- ▶ provides that it is an affirmative defense that the person produced, possessed or administered any of these listed substances if the person:
  - was engaged in medical research; and
  - was a holder of a license to possess controlled substances for research;
- ▶ authorizes the Controlled Substances Advisory Committee to recommend placement of a substance on a controlled substance list if it finds that the substance has a potential for abuse and that an accepted standard has not been established for safe use in treatment for medical purposes;
- ▶ adds "spice" to the driver license provisions regarding driving under the influence; and
- ▶ provides that a legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of the Utah Controlled Substances Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

33 This bill provides an effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-6a-517**, as last amended by Laws of Utah 2009, Chapter 390

37 **58-37-2 (Superseded 07/01/11)**, as last amended by Laws of Utah 2010, Chapters 64

38 and 101

39 **58-37-2 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapters 64, 101,

40 and 276

41 **58-37-3**, as last amended by Laws of Utah 1997, Chapter 64

42 **58-37-4**, as last amended by Laws of Utah 2010, Chapter 106

43 **58-37-6**, as last amended by Laws of Utah 2010, Chapter 287

44 **58-37-8**, as last amended by Laws of Utah 2010, Chapter 64

45 **58-38a-203**, as enacted by Laws of Utah 2010, Chapter 231

46 **58-38a-204**, as enacted by Laws of Utah 2010, Chapter 231

47 ENACTS:

48 **58-37-4.2**, Utah Code Annotated 1953

49

50 *Be it enacted by the Legislature of the state of Utah:*

51 Section 1. Section **41-6a-517** is amended to read:

52 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
53 **body -- Penalties -- Arrest without warrant.**

54 (1) As used in this section:

55 (a) "Controlled substance" [~~means any substance scheduled under Section 58-37-4.~~]

56 has the same meaning as in Section 58-37-2.

57 (b) "Practitioner" has the same meaning as [~~provided~~] in Section 58-37-2.

58 (c) "Prescribe" has the same meaning as [~~provided~~] in Section 58-37-2.

59 (d) "Prescription" has the same meaning as [~~provided~~] in Section 58-37-2.

60 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not  
61 operate or be in actual physical control of a motor vehicle within this state if the person has any  
62 measurable controlled substance or metabolite of a controlled substance in the person's body.

63 (3) It is an affirmative defense to prosecution under this section that the controlled

64 substance was:

65 (a) involuntarily ingested by the accused;

66 (b) prescribed by a practitioner for use by the accused; or

67 (c) otherwise legally ingested.

68 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
69 misdemeanor.

70 (b) A person who violates this section is subject to conviction and sentencing under  
71 both this section and any applicable offense under Section 58-37-8.

72 (5) A peace officer may, without a warrant, arrest a person for a violation of this  
73 section when the officer has probable cause to believe the violation has occurred, although not  
74 in the officer's presence, and if the officer has probable cause to believe that the violation was  
75 committed by the person.

76 (6) The Driver License Division shall:

77 (a) if the person is 21 years of age or older on the date of arrest:

78 (i) suspend, for a period of 120 days, the driver license of a person convicted under  
79 Subsection (2) of an offense committed on or after July 1, 2009; or

80 (ii) revoke, for a period of two years, the driver license of a person if:

81 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

82 (B) the current violation under Subsection (2) is committed:

83 (I) within a period of 10 years after the date of the prior violation; and

84 (II) on or after July 1, 2009;

85 (b) if the person is under 21 years of age on the date of arrest:

86 (i) suspend, until the person is 21 years of age or for a period of 120 days, the driver  
87 license of a person convicted under Subsection (2) of an offense committed on or after July 1,  
88 2009; or

89 (ii) revoke, until the person is 21 years of age or for a period of two years, the driver  
90 license of a person if:

91 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

92 (B) the current violation under Subsection (2) is committed:

93 (I) within a period of 10 years after the date of the prior violation; and

94 (II) on or after July 1, 2009;

95 (c) subtract from any suspension or revocation period the number of days for which a  
96 license was previously suspended under Section 53-3-223 or 53-3-231, if the previous  
97 suspension was based on the same occurrence upon which the record of conviction is based;  
98 and

99 (d) deny, suspend, or revoke a person's license for the denial and suspension periods in  
100 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was  
101 committed prior to July 1, 2009.

102 (7) (a) The court shall notify the Driver License Division if a person fails to:

103 (i) complete all court ordered screening and assessment, educational series, and  
104 substance abuse treatment; or

105 (ii) pay all fines and fees, including fees for restitution and treatment costs.

106 (b) Upon receiving the notification, the division shall suspend the person's driving  
107 privilege in accordance with Subsections 53-3-221(2) and (3).

108 (8) The court shall order supervised probation in accordance with Section 41-6a-507  
109 for a person convicted under Subsection (2).

110 Section 2. Section **58-37-2 (Superseded 07/01/11)** is amended to read:

111 **58-37-2 (Superseded 07/01/11). Definitions.**

112 (1) As used in this chapter:

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

116 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;  
117 or

118 (ii) the patient or research subject at the direction and in the presence of the  
119 practitioner.

120 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a  
121 manufacturer, distributor, or practitioner but does not include a motor carrier, public  
122 warehouseman, or employee of any of them.

123 (c) "Consumption" means ingesting or having any measurable amount of a controlled  
124 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a  
125 controlled substance.

126 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,  
127 partnership, corporation, business trust, association, or other legal entity, and any union or  
128 groups of individuals associated in fact although not a legal entity, and includes illicit as well  
129 as licit entities created or maintained for the purpose of engaging in conduct which constitutes  
130 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled  
131 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled  
132 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,  
133 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar  
134 purposes, results, participants, victims, methods of commission, or otherwise are interrelated  
135 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing  
136 unlawful conduct and be related either to each other or to the enterprise.

137 (e) "Control" means to add, remove, or change the placement of a drug, substance, or  
138 immediate precursor under Section 58-37-3.

139 (f) (i) "Controlled substance" means a drug or substance:

140 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

141 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,  
142 Title II, P.L. 91-513; [or]

143 (C) that is a controlled substance analog[-]; or

144 (D) a substance listed in Section 58-37-4.2.

145 (ii) "Controlled substance" does not include:

146 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32A,  
147 Alcoholic Beverage Control Act;

148 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or  
149 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,  
150 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,  
151 transferred, or furnished as an over-the-counter medication without prescription; or

152 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances  
153 including concentrates or extracts, which:

154 (I) are not otherwise regulated by law; and

155 (II) may contain naturally occurring amounts of chemical or substances listed in this  
156 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking

157 Act.

158 (g) (i) "Controlled substance analog" means a substance the chemical structure of  
159 which is substantially similar to the chemical structure of a controlled substance listed in  
160 Schedules I and II of Section 58-37-4, or in Schedules I and II of the federal Controlled  
161 Substances Act, Title II, P.L. 91-513, or listed in Section 58-37-4.2:

162 (A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous  
163 system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central  
164 nervous system of controlled substances in the schedules set forth in Subsection (1)(f), or a  
165 substance listed in Section 58-37-4.2; or

166 (B) which, with respect to a particular individual, is represented or intended to have a  
167 stimulant, depressant, or hallucinogenic effect on the central nervous system substantially  
168 similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of  
169 controlled substances in the schedules or list set forth in this Subsection (1).

170 (ii) "Controlled substance analog" does not include:

171 (A) a controlled substance currently scheduled in Schedules I through V of Section  
172 58-37-4 or listed in Section 58-37-4.2;

173 (B) a substance for which there is an approved new drug application;

174 (C) a substance with respect to which an exemption is in effect for investigational use  
175 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,  
176 to the extent the conduct with respect to the substance is permitted by the exemption;

177 (D) any substance to the extent not intended for human consumption before an  
178 exemption takes effect with respect to the substance;

179 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or  
180 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,  
181 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,  
182 transferred, or furnished as an over-the-counter medication without prescription; or

183 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances  
184 including concentrates or extracts, which are not otherwise regulated by law, which may  
185 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules  
186 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

187 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or

188 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,  
189 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state  
190 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,  
191 37c, or 37d.

192 (i) "Counterfeit substance" means:

193 (i) any controlled substance or container or labeling of any controlled substance that:

194 (A) without authorization bears the trademark, trade name, or other identifying mark,  
195 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser  
196 other than the person or persons who in fact manufactured, distributed, or dispensed the  
197 substance which falsely purports to be a controlled substance distributed by any other  
198 manufacturer, distributor, or dispenser; and

199 (B) a reasonable person would believe to be a controlled substance distributed by an  
200 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as  
201 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled  
202 substance; or

203 (ii) any substance other than under Subsection (1)(i)(i) that:

204 (A) is falsely represented to be any legally or illegally manufactured controlled  
205 substance; and

206 (B) a reasonable person would believe to be a legal or illegal controlled substance.

207 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a  
208 controlled substance or a listed chemical, whether or not an agency relationship exists.

209 (k) "Department" means the Department of Commerce.

210 (l) "Depressant or stimulant substance" means:

211 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric  
212 acid;

213 (ii) a drug which contains any quantity of:

214 (A) amphetamine or any of its optical isomers;

215 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

216 (C) any substance which the Secretary of Health and Human Services or the Attorney  
217 General of the United States after investigation has found and by regulation designated  
218 habit-forming because of its stimulant effect on the central nervous system;

219 (iii) lysergic acid diethylamide; or

220 (iv) any drug which contains any quantity of a substance which the Secretary of Health  
221 and Human Services or the Attorney General of the United States after investigation has found  
222 to have, and by regulation designated as having, a potential for abuse because of its depressant  
223 or stimulant effect on the central nervous system or its hallucinogenic effect.

224 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an  
225 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes  
226 distributing to, leaving with, giving away, or disposing of that substance as well as the  
227 packaging, labeling, or compounding necessary to prepare the substance for delivery.

228 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.

229 (o) "Distribute" means to deliver other than by administering or dispensing a controlled  
230 substance or a listed chemical.

231 (p) "Distributor" means a person who distributes controlled substances.

232 (q) "Division" means the Division of Occupational and Professional Licensing created  
233 in Section 58-1-103.

234 (r) (i) "Drug" means:

235 (A) a substance recognized in the official United States Pharmacopoeia, Official  
236 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
237 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or  
238 prevention of disease in humans or animals;

239 (B) a substance that is required by any applicable federal or state law or rule to be  
240 dispensed by prescription only or is restricted to administration by practitioners only;

241 (C) a substance other than food intended to affect the structure or any function of the  
242 body of humans or other animals; and

243 (D) substances intended for use as a component of any substance specified in  
244 Subsections (1)(r)(i)(A), (B), and (C)[~~and (D)~~].

245 (ii) "Drug" does not include dietary supplements.

246 (s) "Drug dependent person" means any individual who unlawfully and habitually uses  
247 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so  
248 dependent upon the use of controlled substances as to have lost the power of self-control with  
249 reference to the individual's dependency.

250 (t) "Food" means:

251 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as  
252 specified in this chapter, and normally ingested by human beings; and

253 (ii) foods for special dietary uses as exist by reason of a physical, physiological,  
254 pathological, or other condition including but not limited to the conditions of disease,  
255 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and  
256 overweight; uses for supplying a particular dietary need which exist by reason of age including  
257 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for  
258 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for  
259 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional  
260 purposes.

261 (u) "Immediate precursor" means a substance which the Attorney General of the United  
262 States has found to be, and by regulation designated as being, the principal compound used or  
263 produced primarily for use in the manufacture of a controlled substance, or which is an  
264 immediate chemical intermediary used or likely to be used in the manufacture of a controlled  
265 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the  
266 controlled substance.

267 (v) "Indian" means a member of an Indian tribe.

268 (w) "Indian religion" means any religion:

269 (i) the origin and interpretation of which is from within a traditional Indian culture or  
270 community; and

271 (ii) which is practiced by Indians.

272 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or  
273 community of Indians, including any Alaska Native village, which is legally recognized as  
274 eligible for and is consistent with the special programs, services, and entitlements provided by  
275 the United States to Indians because of their status as Indians.

276 (y) "Manufacture" means the production, preparation, propagation, compounding, or  
277 processing of a controlled substance, either directly or indirectly by extraction from substances  
278 of natural origin, or independently by means of chemical synthesis or by a combination of  
279 extraction and chemical synthesis.

280 (z) "Manufacturer" includes any person who packages, repackages, or labels any

281 container of any controlled substance, except pharmacists who dispense or compound  
282 prescription orders for delivery to the ultimate consumer.

283 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,  
284 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every  
285 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or  
286 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,  
287 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,  
288 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,  
289 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any  
290 synthetic equivalents of the substances contained in the plant cannabis sativa or any other  
291 species of the genus cannabis which are chemically indistinguishable and pharmacologically  
292 active are also included.

293 (bb) "Money" means officially issued coin and currency of the United States or any  
294 foreign country.

295 (cc) "Narcotic drug" means any of the following, whether produced directly or  
296 indirectly by extraction from substances of vegetable origin, or independently by means of  
297 chemical synthesis, or by a combination of extraction and chemical synthesis:

298 (i) opium, coca leaves, and opiates;

299 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or  
300 opiates;

301 (iii) opium poppy and poppy straw; or

302 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the  
303 substance, which is chemically identical with any of the substances referred to in Subsection  
304 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or  
305 extracts of coca leaves which do not contain cocaine or ecgonine.

306 (dd) "Negotiable instrument" means documents, containing an unconditional promise  
307 to pay a sum of money, which are legally transferable to another party by endorsement or  
308 delivery.

309 (ee) "Opiate" means any drug or other substance having an addiction-forming or  
310 addiction-sustaining liability similar to morphine or being capable of conversion into a drug  
311 having addiction-forming or addiction-sustaining liability.

312 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the  
313 seeds of the plant.

314 (gg) "Person" means any corporation, association, partnership, trust, other institution or  
315 entity or one or more individuals.

316 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after  
317 mowing.

318 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,  
319 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,  
320 or consumption, as distinguished from distribution, of controlled substances and includes  
321 individual, joint, or group possession or use of controlled substances. For a person to be a  
322 possessor or user of a controlled substance, it is not required that the person be shown to have  
323 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that  
324 the person jointly participated with one or more persons in the use, possession, or control of  
325 any substances with knowledge that the activity was occurring, or the controlled substance is  
326 found in a place or under circumstances indicating that the person had the ability and the intent  
327 to exercise dominion and control over it.

328 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,  
329 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or  
330 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use  
331 in teaching or chemical analysis a controlled substance in the course of professional practice or  
332 research in this state.

333 (kk) "Prescribe" means to issue a prescription:

334 (i) orally or in writing; or

335 (ii) by telephone, facsimile transmission, computer, or other electronic means of  
336 communication as defined by division rule.

337 (ll) "Prescription" means an order issued:

338 (i) by a licensed practitioner, in the course of that practitioner's professional practice or  
339 by collaborative pharmacy practice agreement; and

340 (ii) for a controlled substance or other prescription drug or device for use by a patient  
341 or an animal.

342 (mm) "Production" means the manufacture, planting, cultivation, growing, or

343 harvesting of a controlled substance.

344 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of  
345 property.

346 (oo) "State" means the state of Utah.

347 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance  
348 for the person's own use, for the use of a member of the person's household, or for  
349 administration to an animal owned by the person or a member of the person's household.

350 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,  
351 Utah Criminal Code, shall apply.

352 Section 3. Section **58-37-2 (Effective 07/01/11)** is amended to read:

353 **58-37-2 (Effective 07/01/11). Definitions.**

354 (1) As used in this chapter:

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

358 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;  
359 or

360 (ii) the patient or research subject at the direction and in the presence of the  
361 practitioner.

362 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a  
363 manufacturer, distributor, or practitioner but does not include a motor carrier, public  
364 warehouseman, or employee of any of them.

365 (c) "Consumption" means ingesting or having any measurable amount of a controlled  
366 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a  
367 controlled substance.

368 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,  
369 partnership, corporation, business trust, association, or other legal entity, and any union or  
370 groups of individuals associated in fact although not a legal entity, and includes illicit as well  
371 as licit entities created or maintained for the purpose of engaging in conduct which constitutes  
372 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled  
373 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled

374 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,  
375 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar  
376 purposes, results, participants, victims, methods of commission, or otherwise are interrelated  
377 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing  
378 unlawful conduct and be related either to each other or to the enterprise.

379 (e) "Control" means to add, remove, or change the placement of a drug, substance, or  
380 immediate precursor under Section 58-37-3.

381 (f) (i) "Controlled substance" means a drug or substance:

382 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

383 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,  
384 Title II, P.L. 91-513; ~~or~~

385 (C) ~~[that is]~~ a controlled substance analog~~[-]; or~~

386 (D) a substance listed in Section 58-37-4.2.

387 (ii) "Controlled substance" does not include:

388 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,  
389 Alcoholic Beverage Control Act;

390 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or  
391 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,  
392 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,  
393 transferred, or furnished as an over-the-counter medication without prescription; or

394 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances  
395 including concentrates or extracts, which:

396 (I) are not otherwise regulated by law; and

397 (II) may contain naturally occurring amounts of chemical or substances listed in this  
398 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking  
399 Act.

400 (g) (i) "Controlled substance analog" means a substance the chemical structure of  
401 which is substantially similar to the chemical structure of a controlled substance listed in  
402 Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules  
403 I and II of the federal Controlled Substances Act, Title II, P.L. 91-513:

404 (A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous

405 system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central  
406 nervous system of controlled substances in the schedules set forth in Subsection (1)(f), a  
407 substance listed in Section 58-37-4.2; or

408 (B) which, with respect to a particular individual, is represented or intended to have a  
409 stimulant, depressant, or hallucinogenic effect on the central nervous system substantially  
410 similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of  
411 controlled substances in the schedules or list set forth in this Subsection (1).

412 (ii) "Controlled substance analog" does not include:

413 (A) a controlled substance currently scheduled in Schedules I through V of Section  
414 58-37-4;

415 (B) a substance for which there is an approved new drug application;

416 (C) a substance with respect to which an exemption is in effect for investigational use  
417 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,  
418 to the extent the conduct with respect to the substance is permitted by the exemption;

419 (D) any substance to the extent not intended for human consumption before an  
420 exemption takes effect with respect to the substance;

421 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or  
422 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,  
423 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,  
424 transferred, or furnished as an over-the-counter medication without prescription; or

425 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances  
426 including concentrates or extracts, which are not otherwise regulated by law, which may  
427 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules  
428 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

429 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or  
430 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,  
431 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state  
432 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,  
433 37c, or 37d.

434 (i) "Counterfeit substance" means:

435 (i) any controlled substance or container or labeling of any controlled substance that:

436 (A) without authorization bears the trademark, trade name, or other identifying mark,  
437 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser  
438 other than the person or persons who in fact manufactured, distributed, or dispensed the  
439 substance which falsely purports to be a controlled substance distributed by any other  
440 manufacturer, distributor, or dispenser; and

441 (B) a reasonable person would believe to be a controlled substance distributed by an  
442 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as  
443 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled  
444 substance; or

445 (ii) any substance other than under Subsection (1)(i)(i) that:

446 (A) is falsely represented to be any legally or illegally manufactured controlled  
447 substance; and

448 (B) a reasonable person would believe to be a legal or illegal controlled substance.

449 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a  
450 controlled substance or a listed chemical, whether or not an agency relationship exists.

451 (k) "Department" means the Department of Commerce.

452 (l) "Depressant or stimulant substance" means:

453 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric  
454 acid;

455 (ii) a drug which contains any quantity of:

456 (A) amphetamine or any of its optical isomers;

457 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

458 (C) any substance which the Secretary of Health and Human Services or the Attorney  
459 General of the United States after investigation has found and by regulation designated  
460 habit-forming because of its stimulant effect on the central nervous system;

461 (iii) lysergic acid diethylamide; or

462 (iv) any drug which contains any quantity of a substance which the Secretary of Health  
463 and Human Services or the Attorney General of the United States after investigation has found  
464 to have, and by regulation designated as having, a potential for abuse because of its depressant  
465 or stimulant effect on the central nervous system or its hallucinogenic effect.

466 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an

467 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes  
468 distributing to, leaving with, giving away, or disposing of that substance as well as the  
469 packaging, labeling, or compounding necessary to prepare the substance for delivery.

470 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.

471 (o) "Distribute" means to deliver other than by administering or dispensing a controlled  
472 substance or a listed chemical.

473 (p) "Distributor" means a person who distributes controlled substances.

474 (q) "Division" means the Division of Occupational and Professional Licensing created  
475 in Section 58-1-103.

476 (r) (i) "Drug" means:

477 (A) a substance recognized in the official United States Pharmacopoeia, Official  
478 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
479 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or  
480 prevention of disease in humans or animals;

481 (B) a substance that is required by any applicable federal or state law or rule to be  
482 dispensed by prescription only or is restricted to administration by practitioners only;

483 (C) a substance other than food intended to affect the structure or any function of the  
484 body of humans or other animals; and

485 (D) substances intended for use as a component of any substance specified in  
486 Subsections (1)(r)(i)(A), (B), and (C)[, ~~and (D)~~].

487 (ii) "Drug" does not include dietary supplements.

488 (s) "Drug dependent person" means any individual who unlawfully and habitually uses  
489 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so  
490 dependent upon the use of controlled substances as to have lost the power of self-control with  
491 reference to the individual's dependency.

492 (t) "Food" means:

493 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as  
494 specified in this chapter, and normally ingested by human beings; and

495 (ii) foods for special dietary uses as exist by reason of a physical, physiological,  
496 pathological, or other condition including but not limited to the conditions of disease,  
497 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and

498 overweight; uses for supplying a particular dietary need which exist by reason of age including  
499 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for  
500 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for  
501 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional  
502 purposes.

503 (u) "Immediate precursor" means a substance which the Attorney General of the United  
504 States has found to be, and by regulation designated as being, the principal compound used or  
505 produced primarily for use in the manufacture of a controlled substance, or which is an  
506 immediate chemical intermediary used or likely to be used in the manufacture of a controlled  
507 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the  
508 controlled substance.

509 (v) "Indian" means a member of an Indian tribe.

510 (w) "Indian religion" means any religion:

511 (i) the origin and interpretation of which is from within a traditional Indian culture or  
512 community; and

513 (ii) which is practiced by Indians.

514 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or  
515 community of Indians, including any Alaska Native village, which is legally recognized as  
516 eligible for and is consistent with the special programs, services, and entitlements provided by  
517 the United States to Indians because of their status as Indians.

518 (y) "Manufacture" means the production, preparation, propagation, compounding, or  
519 processing of a controlled substance, either directly or indirectly by extraction from substances  
520 of natural origin, or independently by means of chemical synthesis or by a combination of  
521 extraction and chemical synthesis.

522 (z) "Manufacturer" includes any person who packages, repackages, or labels any  
523 container of any controlled substance, except pharmacists who dispense or compound  
524 prescription orders for delivery to the ultimate consumer.

525 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,  
526 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every  
527 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or  
528 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,

529 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,  
530 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,  
531 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any  
532 synthetic equivalents of the substances contained in the plant cannabis sativa or any other  
533 species of the genus cannabis which are chemically indistinguishable and pharmacologically  
534 active are also included.

535 (bb) "Money" means officially issued coin and currency of the United States or any  
536 foreign country.

537 (cc) "Narcotic drug" means any of the following, whether produced directly or  
538 indirectly by extraction from substances of vegetable origin, or independently by means of  
539 chemical synthesis, or by a combination of extraction and chemical synthesis:

540 (i) opium, coca leaves, and opiates;

541 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or  
542 opiates;

543 (iii) opium poppy and poppy straw; or

544 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the  
545 substance, which is chemically identical with any of the substances referred to in Subsection  
546 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or  
547 extracts of coca leaves which do not contain cocaine or ecgonine.

548 (dd) "Negotiable instrument" means documents, containing an unconditional promise  
549 to pay a sum of money, which are legally transferable to another party by endorsement or  
550 delivery.

551 (ee) "Opiate" means any drug or other substance having an addiction-forming or  
552 addiction-sustaining liability similar to morphine or being capable of conversion into a drug  
553 having addiction-forming or addiction-sustaining liability.

554 (ff) "Opium poppy" means the plant of the species papaver somniferum L., except the  
555 seeds of the plant.

556 (gg) "Person" means any corporation, association, partnership, trust, other institution or  
557 entity or one or more individuals.

558 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after  
559 mowing.

560 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,  
561 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,  
562 or consumption, as distinguished from distribution, of controlled substances and includes  
563 individual, joint, or group possession or use of controlled substances. For a person to be a  
564 possessor or user of a controlled substance, it is not required that the person be shown to have  
565 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that  
566 the person jointly participated with one or more persons in the use, possession, or control of  
567 any substances with knowledge that the activity was occurring, or the controlled substance is  
568 found in a place or under circumstances indicating that the person had the ability and the intent  
569 to exercise dominion and control over it.

570 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,  
571 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or  
572 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use  
573 in teaching or chemical analysis a controlled substance in the course of professional practice or  
574 research in this state.

575 (kk) "Prescribe" means to issue a prescription:

576 (i) orally or in writing; or

577 (ii) by telephone, facsimile transmission, computer, or other electronic means of  
578 communication as defined by division rule.

579 (ll) "Prescription" means an order issued:

580 (i) by a licensed practitioner, in the course of that practitioner's professional practice or  
581 by collaborative pharmacy practice agreement; and

582 (ii) for a controlled substance or other prescription drug or device for use by a patient  
583 or an animal.

584 (mm) "Production" means the manufacture, planting, cultivation, growing, or  
585 harvesting of a controlled substance.

586 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of  
587 property.

588 (oo) "State" means the state of Utah.

589 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance  
590 for the person's own use, for the use of a member of the person's household, or for

591 administration to an animal owned by the person or a member of the person's household.

592 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,  
593 Utah Criminal Code, shall apply.

594 Section 4. Section **58-37-3** is amended to read:

595 **58-37-3. Controlled substances.**

596 (1) All substances listed in Section 58-37-4 or Section 58-37-4.2 are [~~considered~~]  
597 controlled.

598 (2) All substances listed in the federal Controlled Substances Act, Title II, P.L. 91-513,  
599 are [~~considered~~] controlled.

600 Section 5. Section **58-37-4** is amended to read:

601 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**  
602 **required -- Specific substances included in schedules.**

603 (1) There are established five schedules of controlled substances known as Schedules I,  
604 II, III, IV, and V which [~~shall~~] consist of substances listed in this section.

605 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by  
606 the official name, common or usual name, chemical name, or brand name designated:

607 (a) Schedule I:

608 (i) Unless specifically excepted or unless listed in another schedule, any of the  
609 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and  
610 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific  
611 chemical designation:

612 (A) Acetyl-alpha-methylfentanyl

613 (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

614 (B) Acetylmethadol;

615 (C) Allylprodine;

616 (D) Alphacetylmethadol, except levo-alphacetylmethadol also known as  
617 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

618 (E) Alphameprodine;

619 (F) Alphamethadol;

620 (G) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]

621 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

- 622 (H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-  
623 piperidinyl]-N-phenylpropanamide);
- 624 (I) Benzethidine;
- 625 (J) Betacetylmethadol;
- 626 (K) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-  
627 piperidinyl]-N-phenylpropanamide);
- 628 (L) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-  
629 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- 630 (M) Betameprodine;
- 631 (N) Betamethadol;
- 632 (O) Betaprodine;
- 633 (P) Clonitazene;
- 634 (Q) Dextromoramide;
- 635 (R) Diampromide;
- 636 (S) Diethylthiambutene;
- 637 (T) Difenoxin;
- 638 (U) Dimenoxadol;
- 639 (V) Dimepheptanol;
- 640 (W) Dimethylthiambutene;
- 641 (X) Dioxaphetyl butyrate;
- 642 (Y) Dipipanone;
- 643 (Z) Ethylmethylthiambutene;
- 644 (AA) Etonitazene;
- 645 (BB) Etoxidine;
- 646 (CC) Furethidine;
- 647 (DD) Hydroxypethidine;
- 648 (EE) Ketobemidone;
- 649 (FF) Levomoramide;
- 650 (GG) Levophenacylmorphane;
- 651 (HH) Morpheridine;
- 652 (II) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

- 653 (JJ) Noracymethadol;  
654 (KK) Norlevorphanol;  
655 (LL) Normethadone;  
656 (MM) Norpipanone;  
657 (NN) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]  
658 propanamide;  
659 (OO) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);  
660 (PP) Phenadoxone;  
661 (QQ) Phenampromide;  
662 (RR) Phenomorphan;  
663 (SS) Phenoperidine;  
664 (TT) Piritramide;  
665 (UU) Proheptazine;  
666 (VV) Properidine;  
667 (WW) Propiram;  
668 (XX) Racemoramide;  
669 (YY) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;  
670 (ZZ) Tilidine;  
671 (AAA) Trimeperidine;  
672 (BBB) 3-methylfentanyl, including the optical and geometric isomers  
673 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide); and  
674 (CCC) 3-methylthiofentanyl  
675 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).  
676 (ii) Unless specifically excepted or unless listed in another schedule, any of the  
677 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the  
678 salts, isomers, and salts of isomers is possible within the specific chemical designation:  
679 (A) Acetorphine;  
680 (B) Acetyldihydrocodeine;  
681 (C) Benzylmorphine;  
682 (D) Codeine methylbromide;  
683 (E) Codeine-N-Oxide;

- 684 (F) Cyprenorphine;
- 685 (G) Desomorphine;
- 686 (H) Dihydromorphine;
- 687 (I) Drotebanol;
- 688 (J) Etorphine (except hydrochloride salt);
- 689 (K) Heroin;
- 690 (L) Hydromorphanol;
- 691 (M) Methyldesorphine;
- 692 (N) Methylhydromorphine;
- 693 (O) Morphine methylbromide;
- 694 (P) Morphine methylsulfonate;
- 695 (Q) Morphine-N-Oxide;
- 696 (R) Myrophine;
- 697 (S) Nicocodeine;
- 698 (T) Nicomorphine;
- 699 (U) Normorphine;
- 700 (V) Pholcodine; and
- 701 (W) Thebacon.

702 (iii) Unless specifically excepted or unless listed in another schedule, any material,  
703 compound, mixture, or preparation which contains any quantity of the following hallucinogenic  
704 substances, or which contains any of their salts, isomers, and salts of isomers when the  
705 existence of the salts, isomers, and salts of isomers is possible within the specific chemical  
706 designation; as used in this Subsection (2)(iii) only, "isomer" includes the optical, position, and  
707 geometric isomers:

- 708 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;  
709  $\alpha$ -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole;  $\alpha$ -ET; and AET;
- 710 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:  
711 4-bromo-2,5-dimethoxy- $\alpha$ -methylphenethylamine; 4-bromo-2,5-DMA;
- 712 (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names:  
713 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 714 (D) 2,5-dimethoxyamphetamine, some trade or other names:

- 715 2,5-dimethoxy- $\alpha$ -methylphenethylamine; 2,5-DMA;
- 716 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- 717 (F) 4-methoxyamphetamine, some trade or other names:
- 718 4-methoxy- $\alpha$ -methylphenethylamine; paramethoxyamphetamine, PMA;
- 719 (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- 720 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:
- 721 4-methyl-2,5-dimethoxy- $\alpha$ -methylphenethylamine; "DOM"; and "STP";
- 722 (I) 3,4-methylenedioxy amphetamine;
- 723 (J) 3,4-methylenedioxymethamphetamine (MDMA);
- 724 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
- 725 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- 726 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
- 727 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
- 728 (M) 3,4,5-trimethoxy amphetamine;
- 729 (N) Bufotenine, some trade and other names:
- 730 3-( $\beta$ -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
- 731 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- 732 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- 733 (P) Dimethyltryptamine, some trade or other names: DMT;
- 734 (Q) Ibogaine, some trade and other names:
- 735 7-Ethyl-6,6 $\beta$ ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
- 736 [5,4-b] indole; Tabernanthe iboga;
- 737 (R) Lysergic acid diethylamide;
- 738 (S) Marijuana;
- 739 (T) Mescaline;
- 740 (U) Parahexyl, some trade or other names:
- 741 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- 742 (V) Peyote, meaning all parts of the plant presently classified botanically as
- 743 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
- 744 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
- 745 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

- 746 (W) N-ethyl-3-piperidyl benzilate;
- 747 (X) N-methyl-3-piperidyl benzilate;
- 748 (Y) Psilocybin;
- 749 (Z) Psilocyn;
- 750 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis
- 751 (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis
- 752 plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives,
- 753 and their isomers with similar chemical structure and pharmacological activity to those
- 754 substances contained in the plant, such as the following:  $\Delta 1$  cis or trans tetrahydrocannabinol,
- 755 and their optical isomers  $\Delta 6$  cis or trans tetrahydrocannabinol, and their optical isomers  $\Delta 3,4$
- 756 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these
- 757 substances is not internationally standardized, compounds of these structures, regardless of
- 758 numerical designation of atomic positions covered;
- 759 (BB) Ethylamine analog of phencyclidine, some trade or other names:
- 760 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
- 761 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
- 762 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:
- 763 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
- 764 (DD) Thiophene analog of phencyclidine, some trade or other names:
- 765 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP; and
- 766 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.
- 767 (iv) Unless specifically excepted or unless listed in another schedule, any material
- 768 compound, mixture, or preparation which contains any quantity of the following substances
- 769 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 770 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 771 specific chemical designation:
- 772 (A) Mecloqualone; and
- 773 (B) Methaqualone.
- 774 (v) Any material, compound, mixture, or preparation containing any quantity of the
- 775 following substances having a stimulant effect on the central nervous system, including their
- 776 salts, isomers, and salts of isomers:

- 777 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or  
778 4,5-dihydro-5-phenyl-2-oxazolamine;
- 779 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,  
780 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
- 781 (C) Fenethylamine;
- 782 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;  
783 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one;  
784 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;  
785 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of  
786 optical isomers;
- 787 (E) ( $\pm$ )cis-4-methylaminorex (( $\pm$ )cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 788 (F) N-ethylamphetamine; and
- 789 (G) N,N-dimethylamphetamine, also known as  
790 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.
- 791 (vi) Any material, compound, mixture, or preparation which contains any quantity of  
792 the following substances, including their optical isomers, salts, and salts of isomers, subject to  
793 temporary emergency scheduling:
- 794 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and  
795 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).
- 796 (vii) Unless specifically excepted or unless listed in another schedule, any material,  
797 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate  
798 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.
- 799 (b) Schedule II:
- 800 (i) Unless specifically excepted or unless listed in another schedule, any of the  
801 following substances whether produced directly or indirectly by extraction from substances of  
802 vegetable origin, or independently by means of chemical synthesis, or by a combination of  
803 extraction and chemical synthesis:
- 804 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or  
805 opiate, excluding apomorphine, dextropropion, nalbuphine, nalmefene, naloxone, and naltrexone,  
806 and their respective salts, but including:
- 807 (I) Raw opium;

- 808 (II) Opium extracts;
- 809 (III) Opium fluid;
- 810 (IV) Powdered opium;
- 811 (V) Granulated opium;
- 812 (VI) Tincture of opium;
- 813 (VII) Codeine;
- 814 (VIII) Ethylmorphine;
- 815 (IX) Etorphine hydrochloride;
- 816 (X) Hydrocodone;
- 817 (XI) Hydromorphone;
- 818 (XII) Metopon;
- 819 (XIII) Morphine;
- 820 (XIV) Oxycodone;
- 821 (XV) Oxymorphone; and
- 822 (XVI) Thebaine;
- 823 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or
- 824 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
- 825 substances may not include the isoquinoline alkaloids of opium;
- 826 (C) Opium poppy and poppy straw;
- 827 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
- 828 any salt, compound, derivative, or preparation which is chemically equivalent or identical with
- 829 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
- 830 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
- 831 produced, except the substances may not include decocainized coca leaves or extraction of coca
- 832 leaves, which extractions do not contain cocaine or ecgonine; and
- 833 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
- 834 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.
- 835 (ii) Unless specifically excepted or unless listed in another schedule, any of the
- 836 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
- 837 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
- 838 chemical designation, except dextrorphan and levopropoxyphene:

- 839 (A) Alfentanil;
- 840 (B) Alphaprodine;
- 841 (C) Anileridine;
- 842 (D) Bezitramide;
- 843 (E) Bulk dextropropoxyphene (nondosage forms);
- 844 (F) Carfentanil;
- 845 (G) Dihydrocodeine;
- 846 (H) Diphenoxylate;
- 847 (I) Fentanyl;
- 848 (J) Isomethadone;
- 849 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
- 850 levomethadyl acetate, or LAAM;
- 851 (L) Levomethorphan;
- 852 (M) Levorphanol;
- 853 (N) Metazocine;
- 854 (O) Methadone;
- 855 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 856 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
- 857 acid;
- 858 (R) Pethidine (meperidine);
- 859 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 860 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 861 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 862 (V) Phenazocine;
- 863 (W) Piminodine;
- 864 (X) Racemethorphan;
- 865 (Y) Racemorphan;
- 866 (Z) Remifentanil; and
- 867 (AA) Sufentanil.
- 868 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 869 compound, mixture, or preparation which contains any quantity of the following substances

870 having a stimulant effect on the central nervous system:

871 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

872 (B) Methamphetamine, its salts, isomers, and salts of its isomers;

873 (C) Phenmetrazine and its salts; and

874 (D) Methylphenidate.

875 (iv) Unless specifically excepted or unless listed in another schedule, any material,

876 compound, mixture, or preparation which contains any quantity of the following substances

877 having a depressant effect on the central nervous system, including its salts, isomers, and salts

878 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the

879 specific chemical designation:

880 (A) Amobarbital;

881 (B) Glutethimide;

882 (C) Pentobarbital;

883 (D) Phencyclidine;

884 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and

885 1-piperidinocyclohexanecarbonitrile (PCC); and

886 (F) Secobarbital.

887 (v) (A) Unless specifically excepted or unless listed in another schedule, any material,

888 compound, mixture, or preparation which contains any quantity of Phenylacetone.

889 (B) Some of these substances may be known by trade or other names:

890 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

891 (vi) Nabilone, another name for nabilone:

892 ( $\pm$ )-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,

893 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

894 (c) Schedule III:

895 (i) Unless specifically excepted or unless listed in another schedule, any material,

896 compound, mixture, or preparation which contains any quantity of the following substances

897 having a stimulant effect on the central nervous system, including its salts, isomers whether

898 optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers,

899 and salts of isomers is possible within the specific chemical designation:

900 (A) Those compounds, mixtures, or preparations in dosage unit form containing any

901 stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were  
902 listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the  
903 Code of Federal Regulations, and any other drug of the quantitative composition shown in that  
904 list for those drugs or which is the same except that it contains a lesser quantity of controlled  
905 substances;

906 (B) Benzphetamine;

907 (C) Chlorphentermine;

908 (D) Clortermine; and

909 (E) Phendimetrazine.

910 (ii) Unless specifically excepted or unless listed in another schedule, any material,  
911 compound, mixture, or preparation which contains any quantity of the following substances  
912 having a depressant effect on the central nervous system:

913 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,  
914 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients  
915 which are not listed in any schedule;

916 (B) Any suppository dosage form containing amobarbital, secobarbital, or  
917 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug  
918 Administration for marketing only as a suppository;

919 (C) Any substance which contains any quantity of a derivative of barbituric acid or any  
920 salt of any of them;

921 (D) Chlorhexadol;

922 (E) Buprenorphine;

923 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,  
924 isomers, and salts of isomers, for which an application is approved under the federal Food,  
925 Drug, and Cosmetic Act, Section 505;

926 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:  
927  $\pm$  -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

928 (H) Lysergic acid;

929 (I) Lysergic acid amide;

930 (J) Methyprylon;

931 (K) Sulfondiethylmethane;

- 932 (L) Sulfonethylmethane;
- 933 (M) Sulfonmethane; and
- 934 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a  
935 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:  
936 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:  
937 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,  
938 flupyrzapon.
- 939 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a  
940 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:  
941 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or  
942 (-)-delta-9-(trans)-tetrahydrocannabinol.
- 943 (iv) Nalorphine.
- 944 (v) Unless specifically excepted or unless listed in another schedule, any material,  
945 compound, mixture, or preparation containing limited quantities of any of the following  
946 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:
- 947 (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90  
948 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of  
949 opium;
- 950 (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90  
951 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized  
952 therapeutic amounts;
- 953 (C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more  
954 than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline  
955 alkaloid of opium;
- 956 (D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more  
957 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in  
958 recognized therapeutic amounts;
- 959 (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90  
960 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized  
961 therapeutic amounts;
- 962 (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more

963 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in  
964 recognized therapeutic amounts;

965 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not  
966 more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in  
967 recognized therapeutic amounts; and

968 (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with  
969 one or more active, non-narcotic ingredients in recognized therapeutic amounts.

970 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids  
971 including any of the following or any isomer, ester, salt, or derivative of the following that  
972 promotes muscle growth:

973 (A) Boldenone;

974 (B) Chlorotestosterone (4-chlortestosterone);

975 (C) Clostebol;

976 (D) Dehydrochlormethyltestosterone;

977 (E) Dihydrotestosterone (4-dihydrotestosterone);

978 (F) Drostanolone;

979 (G) Ethylestrenol;

980 (H) Fluoxymesterone;

981 (I) Formebolone (formebolone);

982 (J) Mesterolone;

983 (K) Methandienone;

984 (L) Methandranone;

985 (M) Methandriol;

986 (N) Methandrostenolone;

987 (O) Methenolone;

988 (P) Methyltestosterone;

989 (Q) Mibolerone;

990 (R) Nandrolone;

991 (S) Norethandrolone;

992 (T) Oxandrolone;

993 (U) Oxymesterone;

- 994 (V) Oxymetholone;  
995 (W) Stanolone;  
996 (X) Stanozolol;  
997 (Y) Testolactone;  
998 (Z) Testosterone; and  
999 (AA) Trenbolone.
- 1000 (vii) Anabolic steroids expressly intended for administration through implants to cattle  
1001 or other nonhuman species, and approved by the Secretary of Health and Human Services for  
1002 use, may not be classified as a controlled substance.
- 1003 (d) Schedule IV:
- 1004 (i) Unless specifically excepted or unless listed in another schedule, any material,  
1005 compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not  
1006 less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.
- 1007 (ii) Unless specifically excepted or unless listed in another schedule, any material,  
1008 compound, mixture, or preparation which contains any quantity of the following substances,  
1009 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and  
1010 salts of isomers is possible within the specific chemical designation:
- 1011 (A) Alprazolam;  
1012 (B) Barbital;  
1013 (C) Bromazepam;  
1014 (D) Butorphanol;  
1015 (E) Camazepam;  
1016 (F) Carisoprodol;  
1017 (G) Chloral betaine;  
1018 (H) Chloral hydrate;  
1019 (I) Chlordiazepoxide;  
1020 (J) Clobazam;  
1021 (K) Clonazepam;  
1022 (L) Clorazepate;  
1023 (M) Clotiazepam;  
1024 (N) Cloxazolam;

- 1025 (O) Delorazepam;
- 1026 (P) Diazepam;
- 1027 (Q) Dichloralphenazone;
- 1028 (R) Estazolam;
- 1029 (S) Ethchlorvynol;
- 1030 (T) Ethinamate;
- 1031 (U) Ethyl loflazepate;
- 1032 (V) Fludiazepam;
- 1033 (W) Flunitrazepam;
- 1034 (X) Flurazepam;
- 1035 (Y) Halazepam;
- 1036 (Z) Haloxazolam;
- 1037 (AA) Ketazolam;
- 1038 (BB) Loprazolam;
- 1039 (CC) Lorazepam;
- 1040 (DD) Lormetazepam;
- 1041 (EE) Mebutamate;
- 1042 (FF) Medazepam;
- 1043 (GG) Meprobamate;
- 1044 (HH) Methohexital;
- 1045 (II) Methylphenobarbital (mephobarbital);
- 1046 (JJ) Midazolam;
- 1047 (KK) Nimetazepam;
- 1048 (LL) Nitrazepam;
- 1049 (MM) Nordiazepam;
- 1050 (NN) Oxazepam;
- 1051 (OO) Oxazolam;
- 1052 (PP) Paraldehyde;
- 1053 (QQ) Pentazocine;
- 1054 (RR) Petrichloral;
- 1055 (SS) Phenobarbital;

1056 (TT) Pinazepam;  
1057 (UU) Prazepam;  
1058 (VV) Quazepam;  
1059 (WW) Temazepam;  
1060 (XX) Tetrazepam;  
1061 (YY) Triazolam;  
1062 (ZZ) Zaleplon; and  
1063 (AAA) Zolpidem.

1064 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains  
1065 any quantity of the following substances, including its salts, isomers whether optical, position,  
1066 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of  
1067 isomers is possible.

1068 (iv) Unless specifically excepted or unless listed in another schedule, any material,  
1069 compound, mixture, or preparation which contains any quantity of the following substances  
1070 having a stimulant effect on the central nervous system, including its salts, isomers whether  
1071 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,  
1072 isomers, and salts of isomers is possible within the specific chemical designation:

1073 (A) Cathine ((+)-norpseudoephedrine);  
1074 (B) Diethylpropion;  
1075 (C) Fencamfamine;  
1076 (D) Fenproporex;  
1077 (E) Mazindol;  
1078 (F) Mefenorex;  
1079 (G) Modafinil;  
1080 (H) Pemoline, including organometallic complexes and chelates thereof;  
1081 (I) Phentermine;  
1082 (J) Pipradrol;  
1083 (K) Sibutramine; and  
1084 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

1085 (v) Unless specifically excepted or unless listed in another schedule, any material,  
1086 compound, mixture, or preparation which contains any quantity of dextropropoxyphene

1087 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

1088 (e) Schedule V: Any compound, mixture, or preparation containing any of the  
1089 following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous  
1090 base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in  
1091 sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal  
1092 qualities other than those possessed by the narcotic drug alone:

1093 (i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

1094 (ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100  
1095 grams;

1096 (iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100  
1097 grams;

1098 (iv) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of  
1099 atropine sulfate per dosage unit;

1100 (v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

1101 (vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of  
1102 atropine sulfate per dosage unit; and

1103 (vii) unless specifically exempted or excluded or unless listed in another schedule, any  
1104 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant  
1105 effect on the central nervous system, including its salts, isomers, and salts of isomers.

1106 Section 6. Section **58-37-4.2** is enacted to read:

1107 **58-37-4.2. Listed controlled substances.**

1108 The following substances, their analogs, homologs and synthetic equivalents are listed  
1109 controlled substances:

1110 (1) AM-694;1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone;

1111 (2) CP 47,497 and its C6, C8, and C9 homologs; 2-[(1R,3S) -3-hydroxycyclohexyl]  
1112 -5-(2-methyloctan-2-yl)phenol;

1113 (3) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
1114 -6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol;

1115 (4) HU-211;Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-  
1116 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

1117 (5) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;

- 1118           (6) JWH-018; Naphthalen-1-yl-(pentylindol-3-yl)methanone {also known as  
1119 1-Pentyl-3-(1-naphthoyl)indole};
- 1120           (7) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
- 1121           (8) JWH-073; Naphthalen-1-yl(1-butylindol-3yl)methanone {also known as  
1122 1-Butyl-3-(1-naphthoyl)indole};
- 1123           (9) JWH-081; 4-methoxynaphthalen- 1-yl- (1-pentylindol- 3-yl)methanone;
- 1124           (10) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
- 1125           (11) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole;
- 1126           (12) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;
- 1127           (13) JWH-251; 2-(2- methylphenyl)-1-(1- pentyl-1H- indol-3-yl)- ethanone;
- 1128           (14) JWH-398; [1-pentyl-3-(4-chloro-1-naphthoyl)indole; and
- 1129           (15) RCS-8; [1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as  
1130 BTW-8 and SR-18].

1131           Section 7. Section **58-37-6** is amended to read:

1132           **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**  
1133 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**  
1134 **required -- Prescriptions.**

1135           (1) (a) The division may adopt rules relating to the licensing and control of the  
1136 manufacture, distribution, production, prescription, administration, dispensing, conducting of  
1137 research with, and performing of laboratory analysis upon controlled substances within this  
1138 state.

1139           (b) The division may assess reasonable fees to defray the cost of issuing original and  
1140 renewal licenses under this chapter pursuant to Section 63J-1-504.

1141           (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,  
1142 administers, conducts research with, or performs laboratory analysis upon any controlled  
1143 substance in Schedules II through V within this state, or who proposes to engage in  
1144 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting  
1145 research with, or performing laboratory analysis upon controlled substances included in  
1146 Schedules II through V within this state shall obtain a license issued by the division.

1147           (ii) The division shall issue each license under this chapter in accordance with a  
1148 two-year renewal cycle established by rule. The division may by rule extend or shorten a

1149 renewal period by as much as one year to stagger the renewal cycles it administers.

1150 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,  
1151 administer, conduct research with, or perform laboratory analysis upon controlled substances in  
1152 Schedules II through V within this state may possess, manufacture, produce, distribute,  
1153 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon  
1154 those substances to the extent authorized by their license and in conformity with this chapter.

1155 (c) The following persons are not required to obtain a license and may lawfully possess  
1156 controlled substances under this section:

1157 (i) an agent or employee, except a sales representative, of any registered manufacturer,  
1158 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the  
1159 usual course of the person's business or employment; however, nothing in this subsection shall  
1160 be interpreted to permit an agent, employee, sales representative, or detail man to maintain an  
1161 inventory of controlled substances separate from the location of the person's employer's  
1162 registered and licensed place of business;

1163 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or  
1164 warehouseman, who possesses any controlled substance in the usual course of the person's  
1165 business or employment; and

1166 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to  
1167 a lawful order of a practitioner.

1168 (d) The division may enact rules waiving the license requirement for certain  
1169 manufacturers, producers, distributors, prescribers, dispensers, administrators, research  
1170 practitioners, or laboratories performing analysis if consistent with the public health and safety.

1171 (e) A separate license is required at each principal place of business or professional  
1172 practice where the applicant manufactures, produces, distributes, dispenses, conducts research  
1173 with, or performs laboratory analysis upon controlled substances.

1174 (f) The division may enact rules providing for the inspection of a licensee or applicant's  
1175 establishment, and may inspect the establishment according to those rules.

1176 (3) (a) Upon proper application, the division shall license a qualified applicant to  
1177 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon  
1178 controlled substances included in Schedules I through V, unless it determines that issuance of a  
1179 license is inconsistent with the public interest. The division shall not issue a license to any

1180 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining  
1181 public interest, the division shall consider whether or not the applicant has:

1182 (i) maintained effective controls against diversion of controlled substances and any  
1183 Schedule I or II substance compounded from any controlled substance into other than  
1184 legitimate medical, scientific, or industrial channels;

1185 (ii) complied with applicable state and local law;

1186 (iii) been convicted under federal or state laws relating to the manufacture, distribution,  
1187 or dispensing of substances;

1188 (iv) past experience in the manufacture of controlled dangerous substances;

1189 (v) established effective controls against diversion; and

1190 (vi) complied with any other factors that the division establishes that promote the  
1191 public health and safety.

1192 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,  
1193 produce, distribute, conduct research with, or perform laboratory analysis upon controlled  
1194 substances in Schedule I other than those specified in the license.

1195 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with  
1196 substances in Schedules II through V if they are authorized to administer, dispense, or conduct  
1197 research under the laws of this state.

1198 (ii) The division need not require a separate license for practitioners engaging in  
1199 research with nonnarcotic controlled substances in Schedules II through V where the licensee is  
1200 already licensed under this chapter in another capacity.

1201 (iii) With respect to research involving narcotic substances in Schedules II through V,  
1202 or where the division by rule requires a separate license for research of nonnarcotic substances  
1203 in Schedules II through V, a practitioner shall apply to the division prior to conducting  
1204 research.

1205 (iv) Licensing for purposes of bona fide research with controlled substances by a  
1206 practitioner considered qualified may be denied only on a ground specified in Subsection (4),  
1207 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard  
1208 adequately the practitioner's supply of substances against diversion from medical or scientific  
1209 use.

1210 (v) Practitioners registered under federal law to conduct research in Schedule I

1211 substances may conduct research in Schedule I substances within this state upon furnishing the  
1212 division evidence of federal registration.

1213 (d) Compliance by manufacturers, producers, and distributors with the provisions of  
1214 federal law respecting registration, excluding fees, entitles them to be licensed under this  
1215 chapter.

1216 (e) The division shall initially license those persons who own or operate an  
1217 establishment engaged in the manufacture, production, distribution, dispensation, or  
1218 administration of controlled substances prior to April 3, 1980, and who are licensed by the  
1219 state.

1220 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed  
1221 on probation, or revoked by the division upon finding that the applicant or licensee has:

1222 (i) materially falsified any application filed or required pursuant to this chapter;

1223 (ii) been convicted of an offense under this chapter or any law of the United States, or  
1224 any state, relating to any substance defined as a controlled substance;

1225 (iii) been convicted of a felony under any other law of the United States or any state  
1226 within five years of the date of the issuance of the license;

1227 (iv) had a federal license denied, suspended, or revoked by competent federal authority  
1228 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of  
1229 controlled substances;

1230 (v) had the licensee's license suspended or revoked by competent authority of another  
1231 state for violation of laws or regulations comparable to those of this state relating to the  
1232 manufacture, distribution, or dispensing of controlled substances;

1233 (vi) violated any division rule that reflects adversely on the licensee's reliability and  
1234 integrity with respect to controlled substances;

1235 (vii) refused inspection of records required to be maintained under this chapter by a  
1236 person authorized to inspect them; or

1237 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the  
1238 purpose of manipulating human hormonal structure so as to:

1239 (A) increase muscle mass, strength, or weight without medical necessity and without a  
1240 written prescription by any practitioner in the course of the practitioner's professional practice;

1241 or

- 1242 (B) improve performance in any form of human exercise, sport, or game.
- 1243 (b) The division may limit revocation or suspension of a license to a particular  
1244 controlled substance with respect to which grounds for revocation or suspension exist.
- 1245 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to  
1246 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of  
1247 Occupational and Professional Licensing Act, and conducted in conjunction with the  
1248 appropriate representative committee designated by the director of the department.
- 1249 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and  
1250 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,  
1251 except where the division is designated by law to perform those functions, or, when not  
1252 designated by law, is designated by the executive director of the Department of Commerce to  
1253 conduct the proceedings.
- 1254 (d) (i) The division may suspend any license simultaneously with the institution of  
1255 proceedings under this section if it finds there is an imminent danger to the public health or  
1256 safety.
- 1257 (ii) Suspension shall continue in effect until the conclusion of proceedings, including  
1258 judicial review, unless withdrawn by the division or dissolved by a court of competent  
1259 jurisdiction.
- 1260 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled  
1261 substances owned or possessed by the licensee may be placed under seal in the discretion of the  
1262 division.
- 1263 (ii) Disposition may not be made of substances under seal until the time for taking an  
1264 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,  
1265 orders the sale of perishable substances and the proceeds deposited with the court.
- 1266 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.
- 1267 (f) The division shall notify promptly the Drug Enforcement Administration of all  
1268 orders suspending or revoking a license and all forfeitures of controlled substances.
- 1269 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and  
1270 inventories in conformance with the record keeping and inventory requirements of federal and  
1271 state law and any additional rules issued by the division.
- 1272 (b) (i) Every physician, dentist, naturopathic physician, veterinarian, practitioner, or

1273 other person who is authorized to administer or professionally use a controlled substance shall  
1274 keep a record of the drugs received by him and a record of all drugs administered, dispensed, or  
1275 professionally used by him otherwise than by a prescription.

1276 (ii) A person using small quantities or solutions or other preparations of those drugs for  
1277 local application has complied with this Subsection (5)(b) if the person keeps a record of the  
1278 quantity, character, and potency of those solutions or preparations purchased or prepared by  
1279 him, and of the dates when purchased or prepared.

1280 (6) Controlled substances in Schedules I through V may be distributed only by a  
1281 licensee and pursuant to an order form prepared in compliance with division rules or a lawful  
1282 order under the rules and regulations of the United States.

1283 (7) (a) A person may not write or authorize a prescription for a controlled substance  
1284 unless the person is:

1285 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state  
1286 or under the laws of another state having similar standards; and

1287 (ii) licensed under this chapter or under the laws of another state having similar  
1288 standards.

1289 (b) A person other than a pharmacist licensed under the laws of this state, or the  
1290 pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not  
1291 dispense a controlled substance.

1292 (c) (i) A controlled substance may not be dispensed without the written prescription of  
1293 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

1294 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in  
1295 conformity with Subsection (7)(d).

1296 (iii) In emergency situations, as defined by division rule, controlled substances may be  
1297 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms  
1298 designated by the division and filed by the pharmacy.

1299 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with  
1300 Subsection (7)(d).

1301 (d) Except for emergency situations designated by the division, a person may not issue,  
1302 fill, compound, or dispense a prescription for a controlled substance unless the prescription is  
1303 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of

1304 the prescriber as authorized by division rule, and contains the following information:

1305 (i) the name, address, and registry number of the prescriber;

1306 (ii) the name, address, and age of the person to whom or for whom the prescription is  
1307 issued;

1308 (iii) the date of issuance of the prescription; and

1309 (iv) the name, quantity, and specific directions for use by the ultimate user of the  
1310 controlled substance.

1311 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I  
1312 controlled substance.

1313 (f) Except when administered directly to an ultimate user by a licensed practitioner,  
1314 controlled substances are subject to the following restrictions:

1315 (i) (A) A prescription for a Schedule II substance may not be refilled.

1316 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a  
1317 one-month's supply, as directed on the daily dosage rate of the prescriptions.

1318 (ii) A Schedule III or IV controlled substance may be filled only within six months of  
1319 issuance, and may not be refilled more than six months after the date of its original issuance or  
1320 be refilled more than five times after the date of the prescription unless renewed by the  
1321 practitioner.

1322 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's  
1323 prescription directs, but they may not be refilled one year after the date the prescription was  
1324 issued unless renewed by the practitioner.

1325 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not  
1326 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days  
1327 after the date the prescription was issued, or 30 days after the dispensing date, if that date is  
1328 specified separately from the date of issue.

1329 (v) A practitioner may issue more than one prescription at the same time for the same  
1330 Schedule II controlled substance, but only under the following conditions:

1331 (A) no more than three prescriptions for the same Schedule II controlled substance may  
1332 be issued at the same time;

1333 (B) no one prescription may exceed a 30-day supply;

1334 (C) a second or third prescription shall include the date of issuance and the date for

1335 dispensing; and

1336 (D) unless the practitioner determines there is a valid medical reason to the contrary,  
1337 the date for dispensing a second or third prescription may not be fewer than 30 days from the  
1338 dispensing date of the previous prescription.

1339 (vi) Each prescription for a controlled substance may contain only one controlled  
1340 substance per prescription form and may not contain any other legend drug or prescription  
1341 item.

1342 (g) An order for a controlled substance in Schedules II through V for use by an  
1343 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this  
1344 Subsection (7) if the order is:

1345 (i) issued or made by a prescribing practitioner who holds an unrestricted registration  
1346 with the federal Drug Enforcement Administration, and an active Utah controlled substance  
1347 license in good standing issued by the division under this section, or a medical resident who is  
1348 exempted from licensure under Subsection 58-1-307(1)(c);

1349 (ii) authorized by the prescribing practitioner treating the patient and the prescribing  
1350 practitioner designates the quantity ordered;

1351 (iii) entered upon the record of the patient, the record is signed by the prescriber  
1352 affirming the prescriber's authorization of the order within 48 hours after filling or  
1353 administering the order, and the patient's record reflects the quantity actually administered; and

1354 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within  
1355 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by  
1356 the hospital and the amount taken from the supply is administered directly to the patient  
1357 authorized to receive it.

1358 (h) A practitioner licensed under this chapter may not prescribe, administer, or  
1359 dispense a controlled substance to a child, without first obtaining the consent required in  
1360 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except  
1361 in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same  
1362 meaning as defined in Section 78A-6-105, and "emergency" means any physical condition  
1363 requiring the administration of a controlled substance for immediate relief of pain or suffering.

1364 (i) A practitioner licensed under this chapter may not prescribe or administer dosages  
1365 of a controlled substance in excess of medically recognized quantities necessary to treat the

1366 ailment, malady, or condition of the ultimate user.

1367 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense  
1368 any controlled substance to another person knowing that the other person is using a false name,  
1369 address, or other personal information for the purpose of securing the controlled substance.

1370 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense  
1371 a controlled substance may not manufacture, distribute, or dispense a controlled substance to  
1372 another licensee or any other authorized person not authorized by this license.

1373 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a  
1374 symbol required by this chapter or by a rule issued under this chapter.

1375 (m) A person licensed under this chapter may not refuse or fail to make, keep, or  
1376 furnish any record notification, order form, statement, invoice, or information required under  
1377 this chapter.

1378 (n) A person licensed under this chapter may not refuse entry into any premises for  
1379 inspection as authorized by this chapter.

1380 (o) A person licensed under this chapter may not furnish false or fraudulent material  
1381 information in any application, report, or other document required to be kept by this chapter or  
1382 willfully make any false statement in any prescription, order, report, or record required by this  
1383 chapter.

1384 (8) (a) (i) Any person licensed under this chapter who is found by the division to have  
1385 violated any of the provisions of Subsections (7)(k) through (7)(o) or Subsection (10) is subject  
1386 to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication  
1387 of any violations in accordance with Sections 58-1-106 and 58-1-108.

1388 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the  
1389 General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

1390 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through  
1391 (7)(j) or Subsection (10) is:

1392 (i) upon first conviction, guilty of a class B misdemeanor;

1393 (ii) upon second conviction, guilty of a class A misdemeanor; and

1394 (iii) on third or subsequent conviction, guilty of a third degree felony.

1395 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through  
1396 (7)(o) shall upon conviction be guilty of a third degree felony.

1397 (9) Any information communicated to any licensed practitioner in an attempt to  
1398 unlawfully procure, or to procure the administration of, a controlled substance is not considered  
1399 to be a privileged communication.

1400 (10) A person holding a valid license under this chapter who is engaged in medical  
1401 research may produce, possess, or administer, but may not prescribe or dispense, a controlled  
1402 substance listed in Section 58-37-4.2.

1403 Section 8. Section **58-37-8** is amended to read:

1404 **58-37-8. Prohibited acts -- Penalties.**

1405 (1) Prohibited acts A -- Penalties:

1406 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and  
1407 intentionally:

1408 (i) produce, manufacture, or dispense, or to possess with intent to produce,  
1409 manufacture, or dispense, a controlled or counterfeit substance;

1410 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or  
1411 arrange to distribute a controlled or counterfeit substance;

1412 (iii) possess a controlled or counterfeit substance with intent to distribute; or

1413 (iv) engage in a continuing criminal enterprise where:

1414 (A) the person participates, directs, or engages in conduct which results in any  
1415 violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and

1416 (B) the violation is a part of a continuing series of two or more violations of Title 58,  
1417 Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with  
1418 five or more persons with respect to whom the person occupies a position of organizer,  
1419 supervisor, or any other position of management.

1420 (b) Any person convicted of violating Subsection (1)(a) with respect to:

1421 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled  
1422 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second  
1423 degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

1424 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
1425 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and  
1426 upon a second or subsequent conviction is guilty of a second degree felony; or

1427 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a

1428 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree  
1429 felony.

1430 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)  
1431 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier  
1432 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his  
1433 person or in his immediate possession during the commission or in furtherance of the offense,  
1434 the court shall additionally sentence the person convicted for a term of one year to run  
1435 consecutively and not concurrently; and the court may additionally sentence the person  
1436 convicted for an indeterminate term not to exceed five years to run consecutively and not  
1437 concurrently.

1438 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
1439 felony punishable by imprisonment for an indeterminate term of not less than seven years and  
1440 which may be for life. Imposition or execution of the sentence may not be suspended, and the  
1441 person is not eligible for probation.

1442 (2) Prohibited acts B -- Penalties:

1443 (a) It is unlawful:

1444 (i) for any person knowingly and intentionally to possess or use a controlled substance  
1445 analog or a controlled substance, unless it was obtained under a valid prescription or order,  
1446 directly from a practitioner while acting in the course of the person's professional practice, or as  
1447 otherwise authorized by this chapter;

1448 (ii) for any owner, tenant, licensee, or person in control of any building, room,  
1449 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to  
1450 be occupied by persons unlawfully possessing, using, or distributing controlled substances in  
1451 any of those locations; or

1452 (iii) for any person knowingly and intentionally to possess an altered or forged  
1453 prescription or written order for a controlled substance.

1454 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

1455 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1456 (ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16  
1457 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree  
1458 felony; or

1459 (iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of  
1460 the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A  
1461 misdemeanor.

1462 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
1463 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater  
1464 penalty than provided in this Subsection (2).

1465 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled  
1466 substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in  
1467 Section 58-37-4.2, or less than one ounce of marijuana, is guilty of a class B misdemeanor.  
1468 Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or  
1469 subsequent conviction the person is guilty of a third degree felony.

1470 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior  
1471 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or  
1472 any public jail or other place of confinement shall be sentenced to a penalty one degree greater  
1473 than provided in Subsection (2)(b), and if the conviction is with respect to controlled  
1474 substances as listed in:

1475 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
1476 indeterminate term as provided by law, and:

1477 (A) the court shall additionally sentence the person convicted to a term of one year to  
1478 run consecutively and not concurrently; and

1479 (B) the court may additionally sentence the person convicted for an indeterminate term  
1480 not to exceed five years to run consecutively and not concurrently; and

1481 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
1482 indeterminate term as provided by law, and the court shall additionally sentence the person  
1483 convicted to a term of six months to run consecutively and not concurrently.

1484 (f) Any person convicted of violating Subsection (2)(a)(ii) or (2)(a)(iii) is:

1485 (i) on a first conviction, guilty of a class B misdemeanor;

1486 (ii) on a second conviction, guilty of a class A misdemeanor; and

1487 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1488 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not  
1489 amounting to a violation of Section 76-5-207:

1490 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's  
1491 body any measurable amount of a controlled substance; and

1492 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,  
1493 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

1494 (h) A person who violates Subsection (2)(g) by having in the person's body:

1495 (i) a controlled substance classified under Schedule I, other than those described in  
1496 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second  
1497 degree felony;

1498 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection  
1499 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third  
1500 degree felony; or

1501 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class  
1502 A misdemeanor.

1503 (i) A person is guilty of a separate offense for each victim suffering serious bodily  
1504 injury or death as a result of the person's negligent driving in violation of Subsection  
1505 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

1506 (3) Prohibited acts C -- Penalties:

1507 (a) It is unlawful for any person knowingly and intentionally:

1508 (i) to use in the course of the manufacture or distribution of a controlled substance a  
1509 license number which is fictitious, revoked, suspended, or issued to another person or, for the  
1510 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a  
1511 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized  
1512 person;

1513 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
1514 administration of, to obtain a prescription for, to prescribe or dispense to any person known to  
1515 be attempting to acquire or obtain possession of, or to procure the administration of any  
1516 controlled substance by misrepresentation or failure by the person to disclose receiving any  
1517 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a  
1518 prescription or written order for a controlled substance, or the use of a false name or address;

1519 (iii) to make any false or forged prescription or written order for a controlled substance,  
1520 or to utter the same, or to alter any prescription or written order issued or written under the

1521 terms of this chapter; or

1522 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed  
1523 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or  
1524 device of another or any likeness of any of the foregoing upon any drug or container or labeling  
1525 so as to render any drug a counterfeit controlled substance.

1526 (b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree  
1527 felony.

1528 (4) Prohibited acts D -- Penalties:

1529 (a) Notwithstanding other provisions of this section, a person not authorized under this  
1530 chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a,  
1531 Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances  
1532 Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if  
1533 the trier of fact finds the act is committed:

1534 (i) in a public or private elementary or secondary school or on the grounds of any of  
1535 those schools;

1536 (ii) in a public or private vocational school or postsecondary institution or on the  
1537 grounds of any of those schools or institutions;

1538 (iii) in those portions of any building, park, stadium, or other structure or grounds  
1539 which are, at the time of the act, being used for an activity sponsored by or through a school or  
1540 institution under Subsections (4)(a)(i) and (ii);

1541 (iv) in or on the grounds of a preschool or child-care facility;

1542 (v) in a public park, amusement park, arcade, or recreation center;

1543 (vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

1544 (vii) in a shopping mall, sports facility, stadium, arena, theater, movie house,  
1545 playhouse, or parking lot or structure adjacent thereto;

1546 (viii) in or on the grounds of a library;

1547 (ix) within any area that is within 1,000 feet of any structure, facility, or grounds  
1548 included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

1549 (x) in the presence of a person younger than 18 years of age, regardless of where the act  
1550 occurs; or

1551 (xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or

1552 distribution of a substance in violation of this section to an inmate or on the grounds of any  
1553 correctional facility as defined in Section 76-8-311.3.

1554 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony  
1555 and shall be imprisoned for a term of not less than five years if the penalty that would  
1556 otherwise have been established but for this Subsection (4) would have been a first degree  
1557 felony.

1558 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
1559 not eligible for probation.

1560 (c) If the classification that would otherwise have been established would have been  
1561 less than a first degree felony but for this Subsection (4), a person convicted under this  
1562 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that  
1563 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1564 (d) (i) If the violation is of Subsection (4)(a)(xi):

1565 (A) the person may be sentenced to imprisonment for an indeterminate term as  
1566 provided by law, and the court shall additionally sentence the person convicted for a term of  
1567 one year to run consecutively and not concurrently; and

1568 (B) the court may additionally sentence the person convicted for an indeterminate term  
1569 not to exceed five years to run consecutively and not concurrently; and

1570 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with  
1571 the mental state required for the commission of an offense, directly or indirectly solicits,  
1572 requests, commands, coerces, encourages, or intentionally aids another person to commit a  
1573 violation of Subsection (4)(a)(xi).

1574 (e) It is not a defense to a prosecution under this Subsection (4) that the actor  
1575 mistakenly believed the individual to be 18 years of age or older at the time of the offense or  
1576 was unaware of the individual's true age; nor that the actor mistakenly believed that the  
1577 location where the act occurred was not as described in Subsection (4)(a) or was unaware that  
1578 the location where the act occurred was as described in Subsection (4)(a).

1579 (5) Any violation of this chapter for which no penalty is specified is a class B  
1580 misdemeanor.

1581 (6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of  
1582 guilty or no contest to a violation of this section which is held in abeyance under Title 77,

1583 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been  
1584 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

1585 (7) A person may be charged and sentenced for a violation of this section,  
1586 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1587 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in  
1588 lieu of, any civil or administrative penalty or sanction authorized by law.

1589 (b) Where violation of this chapter violates a federal law or the law of another state,  
1590 conviction or acquittal under federal law or the law of another state for the same act is a bar to  
1591 prosecution in this state.

1592 (9) In any prosecution for a violation of this chapter, evidence or proof which shows a  
1593 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
1594 substance or substances, is prima facie evidence that the person or persons did so with  
1595 knowledge of the character of the substance or substances.

1596 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
1597 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or  
1598 administering controlled substances or from causing the substances to be administered by an  
1599 assistant or orderly under the veterinarian's direction and supervision.

1600 (11) Civil or criminal liability may not be imposed under this section on:

1601 (a) any person registered under this chapter who manufactures, distributes, or possesses  
1602 an imitation controlled substance for use as a placebo or investigational new drug by a  
1603 registered practitioner in the ordinary course of professional practice or research; or

1604 (b) any law enforcement officer acting in the course and legitimate scope of the  
1605 officer's employment.

1606 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,  
1607 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide  
1608 traditional ceremonial purposes in connection with the practice of a traditional Indian religion  
1609 as defined in Subsection 58-37-2(1)(w).

1610 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
1611 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,  
1612 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in  
1613 connection with the practice of a traditional Indian religion.

1614 (c) (i) The defendant shall provide written notice of intent to claim an affirmative  
1615 defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to  
1616 trial.

1617 (ii) The notice shall include the specific claims of the affirmative defense.

1618 (iii) The court may waive the notice requirement in the interest of justice for good  
1619 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1620 (d) The defendant shall establish the affirmative defense under this Subsection (12) by  
1621 a preponderance of the evidence. If the defense is established, it is a complete defense to the  
1622 charges.

1623 (13) (a) It is an affirmative defense that the person produced, possessed, or  
1624 administered a controlled substance listed in Section 58-37-4.2 if the person:

1625 (i) was engaged in medical research; and

1626 (ii) was a holder of a valid license to possess controlled substances under Section  
1627 58-37-6.

1628 (b) It is not a defense under Subsection 58-37-8(13)(a) that the person prescribed or  
1629 dispensed a controlled substance listed in 58-37-4.2.

1630 (14) It is an affirmative defense that the person possessed, in the person's body, a  
1631 controlled substance listed in Section 58-37-4.2 if:

1632 (a) the person was the subject of medical research conducted by a holder of a valid  
1633 license to possess controlled substances under Section 58-37-6; and

1634 (b) the substance was administered to the person by the medical researcher.

1635 ~~(13)~~ (15) If any provision of this chapter, or the application of any provision to any  
1636 person or circumstances, is held invalid, the remainder of this chapter shall be given effect  
1637 without the invalid provision or application.

1638 (15) A legislative body of a political subdivision may not enact an ordinance that is  
1639 less restrictive than any provision of this chapter.

1640 Section 9. Section **58-38a-203** is amended to read:

1641 **58-38a-203. Duties of the committee.**

1642 (1) The committee serves as a consultative and advisory body to the Legislature  
1643 regarding:

1644 (a) the movement of a controlled substance from one schedule or list to another;

- 1645 (b) the removal of a controlled substance from any schedule or list; and  
1646 (c) the designation of a substance as a controlled substance and the placement of the  
1647 substance in a designated schedule or list.
- 1648 (2) On or before September 30 of each year, the committee shall submit to the Health  
1649 and Human Services Interim Committee a written report:
- 1650 (a) [~~listing~~] describing any substances recommended by the committee for scheduling,  
1651 rescheduling, listing, or deletion from the schedules or list by the Legislature; and  
1652 (b) stating the reasons for the recommendation.
- 1653 (3) In advising the Legislature regarding the need to add, delete, relist or reschedule a  
1654 substance, the committee shall consider:
- 1655 (a) the actual or probable abuse of the substance, including:  
1656 (i) the history and current pattern of abuse both in Utah and in other states;  
1657 (ii) the scope, duration, and significance of abuse;  
1658 (iii) the degree of actual or probable detriment to public health which may result from  
1659 abuse of the substance;
- 1660 (iv) the probable physical and social impact of widespread abuse of the substance;
- 1661 (b) the biomedical hazard of the substance, including:  
1662 (i) its pharmacology, including the effects and modifiers of the effects of the substance;  
1663 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,  
1664 whether controlled or not, and the degree to which it may cause psychological or physiological  
1665 dependence; and  
1666 (iii) the risk to public health and the particular susceptibility of segments of the  
1667 population;
- 1668 (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of  
1669 a substance that is currently a controlled substance;
- 1670 (d) the current state of scientific knowledge regarding the substance, including whether  
1671 there is any acceptable means to safely use the substance under medical supervision;
- 1672 (e) the relationship between the use of the substance and criminal activity, including  
1673 whether:  
1674 (i) persons engaged in illicit trafficking of the substance are also engaged in other  
1675 criminal activity;

1676 (ii) the nature and relative profitability of manufacturing or delivering the substance  
1677 encourages illicit trafficking in the substance;

1678 (iii) the commission of other crimes is one of the recognized effects of abuse of the  
1679 substance; and

1680 (iv) addiction to the substance relates to the commission of crimes to facilitate the  
1681 continued use of the substance;

1682 (f) whether the substance has been scheduled by other states; and

1683 (g) whether the substance has any accepted medical use in treatment in the United  
1684 States.

1685 (4) The committee's duties under this chapter do not include tobacco products as  
1686 defined in Section 59-14-102 or alcoholic beverages as defined in Section 32A-1-105.

1687 Section 10. Section **58-38a-204** is amended to read:

1688 **58-38a-204. Guidelines for scheduling or listing drugs.**

1689 (1) (a) The committee shall recommend placement of a substance in Schedule I if it  
1690 finds:

1691 (i) that the substance has high potential for abuse; and

1692 (ii) that an accepted standard has not been established for safe use in treatment for  
1693 medical purposes.

1694 (b) The committee may recommend placement of a substance in Schedule I under  
1695 Section 58-37-4 if it finds that the substance is classified as a controlled substance in Schedule  
1696 I under federal law.

1697 (2) (a) The committee shall recommend placement of a substance in Schedule II if it  
1698 finds that:

1699 (i) the substance has high potential for abuse;

1700 (ii) the substance has a currently accepted medical use in treatment in the United  
1701 States, or a currently accepted medical use subject to severe restrictions; and

1702 (iii) the abuse of the substance may lead to severe psychological or physiological  
1703 dependence.

1704 (b) The committee may recommend placement of a substance in Schedule II if it finds  
1705 that the substance is classified as a controlled substance in Schedule II under federal law.

1706 (3) (a) The committee shall recommend placement of a substance in Schedule III if it

1707 finds that:

1708 (i) the substance has a potential for abuse that is less than the potential for substances  
1709 listed in Schedules I and II;

1710 (ii) the substance has a currently accepted medical use in treatment in the United  
1711 States; and

1712 (iii) abuse of the substance may lead to moderate or low physiological dependence or  
1713 high psychological dependence.

1714 (b) The committee may recommend placement of a substance in Schedule III if it finds  
1715 that the substance is classified as a controlled substance in Schedule III under federal law.

1716 (4) (a) The committee shall recommend placement of a substance in Schedule IV if it  
1717 finds that:

1718 (i) the substance has a low potential for abuse relative to substances in Schedule III;

1719 (ii) the substance has currently accepted medical use in treatment in the United States;

1720 and

1721 (iii) abuse of the substance may lead to limited physiological dependence or  
1722 psychological dependence relative to the substances in Schedule III.

1723 (b) The committee may recommend placement of a substance in Schedule IV if it finds  
1724 that the substance is classified as a controlled substance in Schedule IV under federal law.

1725 (5) (a) The committee shall recommend placement of a substance in Schedule V if it  
1726 finds that:

1727 (i) the substance has low potential for abuse relative to the controlled substances listed  
1728 in Schedule IV;

1729 (ii) the substance has currently accepted medical use in treatment in the United States;

1730 and

1731 (iii) the substance has limited physiological dependence or psychological dependence  
1732 liability relative to the controlled substances listed in Schedule IV.

1733 (b) The committee may recommend placement of a substance in Schedule V under this  
1734 chapter if it finds that the substance is classified as a controlled substance in Schedule V under  
1735 federal law.

1736 (6) The committee may recommend placement of a substance on a controlled substance  
1737 list if it finds that the substance has a potential for abuse and that an accepted standard has not

1738 been established for safe use in treatment for medical purposes.

1739           Section 11. **Effective date.**

1740           If approved by two-thirds of all the members elected to each house, this bill takes effect  
1741 upon approval by the governor, or the day following the constitutional time limit of Utah  
1742 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1743 the date of veto override, except that the amendments to Section 58-37-2 (Effective 07/01/11)  
1744 take effect on July 1, 2011.