Chapter 37
Utah Controlled Substances Act

58-37-1 Short title.

This act shall be known and may be cited as the "Utah Controlled Substances Act."

Enacted by Chapter 145, 1971 General Session

58-37-2 Definitions.

(1) As used in this chapter:

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

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

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

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

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

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

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

(f)

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

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

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

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

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

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

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

(I) are not otherwise regulated by law; and

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

(g)

(i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

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

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

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

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

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

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

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

(h)

(i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A)Chapter 37, Utah Controlled Substances Act;

(B)Chapter 37a, Utah Drug Paraphernalia Act;

(C)Chapter 37b, Imitation Controlled Substances Act;

(D)Chapter 37c, Utah Controlled Substance Precursor Act; or

(E)Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:
(A)Chapter 37, Utah Controlled Substances Act;
(B)Chapter 37a, Utah Drug Paraphernalia Act;
(C)Chapter 37b, Imitation Controlled Substances Act;
(D)Chapter 37c, Utah Controlled Substance Precursor Act; or
(E)Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:
(i) any controlled substance or container or labeling of any controlled substance that:
(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and
(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or
(ii) any substance other than under Subsection (1)(i)(i) that:
(A) is falsely represented to be any legally or illegally manufactured controlled substance; and
(B) a reasonable person would believe to be a legal or illegal controlled substance.

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

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

(l) "Depressant or stimulant substance" means:
(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;
(ii) a drug which contains any quantity of:
(A) amphetamine or any of its optical isomers;
(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;
(iii) lysergic acid diethylamide; or
(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

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

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

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

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

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

(r)
(i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;
(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and
(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

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

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

(t) "Food" means:

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

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

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

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

(w) "Indian religion" means any religion:

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

(ii) which is practiced by Indians.

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

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

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

(aa)

(i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:
(A) seeds;
(B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;
(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin;
(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active; and
(E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.
(ii) "Marijuana" does not include:
(A) the mature stalks of the plant;
(B) fiber produced from the stalks;
(C) oil or cake made from the seeds of the plant;
(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;
(E) the sterilized seed of the plant which is incapable of germination; or
(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513.

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

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
(i) opium, coca leaves, and opiates;
(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
(iii) opium poppy and poppy straw; or
(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

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

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

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

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

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

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes

individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

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

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

(i) orally or in writing; or

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

(ll) "Prescription" means an order issued:

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

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

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

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

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

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

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

Amended by Chapter 165, 2022 General Session
Amended by Chapter 415, 2022 General Session

58-37-2.5 Restricted applicability.

This chapter does not restrict the sale and use of herbs, herbal products, or food supplements that are not scheduled in this chapter as controlled substances.

Amended by Chapter 101, 1990 General Session

58-37-3 Controlled substances.

(1) All substances listed in Section 58-37-4 or 58-37-4.2 are controlled.

(2) All substances listed in the federal Controlled Substances Act, Title II, P.L. 91-513, are controlled.

Amended by Chapter 12, 2011 General Session

58-37-3.6 Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:
(a) "Cannabinoid product" means a product intended for human ingestion that:
(i) contains an extract or concentrate that is obtained from cannabis;
(ii) is prepared in a medicinal dosage form; and
(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.
(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.
(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
(d) "Expanded cannabinoid product" means a product intended for human ingestion that:
(i) contains an extract or concentrate that is obtained from cannabis;
(ii) is prepared in a medicinal dosage form; and
(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.
(e) "Medicinal dosage form" means:
(i) a tablet;
(ii) a capsule;
(iii) a concentrated oil;
(iv) a liquid suspension;
(v) a transdermal preparation; or
(vi) a sublingual preparation.
(f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).
(2) Notwithstanding any other provision of this chapter an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Amended by Chapter 329, 2023 General Session

58-37-3.7 Medical cannabis decriminalization.

(1) As used in this section:
(a) "Cannabis" means the same as that term is defined in Section 26B-4-201.
(b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
(c) "Legal dosage limit" means the same as that term is defined in Section 26B-4-201.
(d) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.
(e) "Medical cannabis device" means the same as that term is defined in Section 26B-4-201.
(f) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.
(g) "Nonresident patient" means the same as that term is defined in Section 26B-4-201.
(h) "Qualifying condition" means the same as that term is defined in Section 26B-4-201.
(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.
(2) Before July 1, 2021, including during the period between January 1, 2021, and March 17, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:
(a) at the time of the arrest or citation, the individual:
(i) for possession, was a medical cannabis cardholder; or

(ii) for use, was a medical cannabis patient cardholder or a minor with a provisional patient card under the supervision of a medical cannabis guardian cardholder; and

(b)

(i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

(B) a cannabis product in a medicinal dosage form; and

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4)

(a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:

(i) Section 4-41-402; or

(ii)Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(5)

(a) An individual is not guilty under this chapter for the use or possession of marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

(b) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections of this section to sell a medical cannabis device.

Amended by Chapter 329, 2023 General Session

58-37-3.8 Enforcement.

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter

4, Part 2, Cannabinoid Research and Medical Cannabis, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26B-4-201, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 28B-4-201, the state central patient portal, as that term is defined in Section 26B-4-201, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Amended by Chapter 273, 2023 General Session
Amended by Chapter 329, 2023 General Session

58-37-3.9 Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.

(e) "Medical cannabis device" means the same as that term is defined in Section 26B-4-201.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3)

(a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b)Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b):

(A) for the first offense, guilty of an infraction and subject to a fine of up to $100; and

(B) for a second or subsequent offense, subject to charges under this chapter.

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

(5)

(a) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections of this section to sell a medical cannabis device.

Amended by Chapter 329, 2023 General Session

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

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

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

(a) Schedule I:

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

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

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

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

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);
(K) Benzylpiperazine;
(L) Benzethidine;
(M) Betacetylmethadol;
(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4- piperidinyl]-N-phenylpropanamide);
(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
(P) Betameprodine;
(Q) Betamethadol;
(R) Betaprodine;
(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);
(T) Clonitazene;
(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
(V) Dextromoramide;
(W) Diampromide;
(X) Diethylthiambutene;
(Y) Difenoxin;
(Z) Dimenoxadol;
(AA) Dimepheptanol;
(BB) Dimethylthiambutene;
(CC) Dioxaphetyl butyrate;
(DD) Dipipanone;
(EE) Ethylmethylthiambutene;
(FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);
(GG) Etonitazene;
(HH) Etoxeridine;
(II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl] furan-2-carboxamide);
(JJ) Furethidine;
(KK) Hydroxypethidine;
(LL) Ketobemidone;
(MM) Levomoramide;
(NN) Levophenacylmorphan;
(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);
(PP) Morpheridine;
(QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(RR) Noracymethadol;
(SS) Norlevorphanol;
(TT) Normethadone;
(UU) Norpipanone;
(VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl] propanamide);
(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
(XX) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(YY) Phenadoxone;
(ZZ) Phenampromide;
(AAA) Phenomorphan;
(BBB) Phenoperidine;
(CCC) Piritramide;
(DDD) Proheptazine;
(EEE) Properidine;
(FFF) Propiram;
(GGG) Racemoramide;
(HHH) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
(III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
(JJJ) Tilidine;
(KKK) Trimeperidine;
(LLL) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide);
(MMM) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and
(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Acetorphine;
(B) Acetyldihydrocodeine;
(C) Benzylmorphine;
(D) Codeine methylbromide;
(E) Codeine-N-Oxide;
(F) Cyprenorphine;
(G) Desomorphine;
(H) Dihydromorphine;
(I) Drotebanol;
(J) Etorphine (except hydrochloride salt);
(K) Heroin;
(L) Hydromorphinol;
(M) Methyldesorphine;
(N) Methylhydromorphine;
(O) Morphine methylbromide;
(P) Morphine methylsulfonate;
(Q) Morphine-N-Oxide;
(R) Myrophine;
(S) Nicocodeine;
(T) Nicomorphine;
(U) Normorphine;
(V) Pholcodine; and
(W) Thebacon.

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

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

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

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

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

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy-α-methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

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

(I) 3,4-methylenedioxy amphetamine;

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

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

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

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

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

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

(P) Dimethyltryptamine, some trade or other names: DMT;

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

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

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

(V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

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

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

(Y) Psilocybin;
(Z) Psilocyn;
(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis (cannabis plant), except for marijuana as defined in Subsection 58-37-2(1)(aa)(i)(E), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Δ1 cis or trans tetrahydrocannabinol, and their optical isomers Δ6 cis or trans tetrahydrocannabinol, and their optical isomers Δ3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;
(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and
(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Mecloqualone; and
(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:
(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;
(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
(C) Fenethylline;
(D) Methcathinone, some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;
(E) (±)cis-4-methylaminorex ((±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
(F) N-ethylamphetamine; and
(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
(B) N-[1- (2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).
(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.
(b) Schedule II:
(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:
(I) Raw opium;
(II) Opium extracts;
(III) Opium fluid;
(IV) Powdered opium;
(V) Granulated opium;
(VI) Tincture of opium;
(VII) Codeine;
(VIII) Ethylmorphine;
(IX) Etorphine hydrochloride;
(X) Hydrocodone;
(XI) Hydromorphone;
(XII) Metopon;
(XIII) Morphine;
(XIV) Oxycodone;
(XV) Oxymorphone; and
(XVI) Thebaine;
(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;
(C) Opium poppy and poppy straw;
(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and
(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.
(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:
(A) Alfentanil;
(B) Alphaprodine;
(C) Anileridine;

(D) Bezitramide;
(E) Bulk dextropropoxyphene (nondosage forms);
(F) Carfentanil;
(G) Dihydrocodeine;
(H) Diphenoxylate;
(I) Fentanyl;
(J) Isomethadone;
(K) Levo-alphacetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
(L) Levomethorphan;
(M) Levorphanol;
(N) Metazocine;
(O) Methadone;
(P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
(R) Pethidine (meperidine);
(S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(V) Phenazocine;
(W) Piminodine;
(X) Racemethorphan;
(Y) Racemorphan;
(Z) Remifentanil; and
(AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(B) Methamphetamine, its salts, isomers, and salts of its isomers;
(C) Phenmetrazine and its salts; and
(D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Amobarbital;
(B) Glutethimide;
(C) Pentobarbital;
(D) Phencyclidine;
(E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and
(F) Secobarbital.

(v)
(A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(c) Schedule III:

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

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

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

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

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

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

(D) Chlorhexadol;

(E) Buprenorphine;

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

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: ± -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

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

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

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

(A) Boldenone;

(B) Chlorotestosterone (4-chlortestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebulone (formebolone);

(J) Mesterolone;

(K) Methandienone;
(L) Methandranone;
(M) Methandriol;
(N) Methandrostenolone;
(O) Methenolone;
(P) Methyltestosterone;
(Q) Mibolerone;
(R) Nandrolone;
(S) Norethandrolone;
(T) Oxandrolone;
(U) Oxymesterone;
(V) Oxymetholone;
(W) Stanolone;
(X) Stanozolol;
(Y) Testolactone;
(Z) Testosterone; and
(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ix) Nabiximols.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Alprazolam;
(B) Barbital;
(C) Bromazepam;
(D) Butorphanol;
(E) Camazepam;
(F) Carisoprodol;
(G) Chloral betaine;
(H) Chloral hydrate;
(I) Chlordiazepoxide;
(J) Clobazam;
(K) Clonazepam;
(L) Clorazepate;
(M) Clotiazepam;
(N) Cloxazolam;
(O) Delorazepam;

(P) Diazepam;
(Q) Dichloralphenazone;
(R) Estazolam;
(S) Ethchlorvynol;
(T) Ethinamate;
(U) Ethyl loflazepate;
(V) Fludiazepam;
(W) Flunitrazepam;
(X) Flurazepam;
(Y) Halazepam;
(Z) Haloxazolam;
(AA) Ketazolam;
(BB) Loprazolam;
(CC) Lorazepam;
(DD) Lormetazepam;
(EE) Mebutamate;
(FF) Medazepam;
(GG) Meprobamate;
(HH) Methohexital;
(II) Methylphenobarbital (mephobarbital);
(JJ) Midazolam;
(KK) Nimetazepam;
(LL) Nitrazepam;
(MM) Nordiazepam;
(NN) Oxazepam;
(OO) Oxazolam;
(PP) Paraldehyde;
(QQ) Pentazocine;
(RR) Petrichloral;
(SS) Phenobarbital;
(TT) Pinazepam;
(UU) Prazepam;
(VV) Quazepam;
(WW) Temazepam;
(XX) Tetrazepam;
(YY) Tramadol;
(ZZ) Triazolam;
(AAA) Zaleplon; and
(BBB) Zolpidem.

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

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

(A) Cathine ((+)-norpseudoephedrine);
(B) Diethylpropion;
(C) Fencamfamine;
(D) Fenproprex;
(E) Mazindol;
(F) Mefenorex;
(G) Modafinil;
(H) Pemoline, including organometallic complexes and chelates thereof;
(I) Phentermine;
(J) Pipradrol;
(K) Sibutramine; and
(L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:
(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and
(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91-513.

Amended by Chapter 165, 2022 General Session

58-37-4.2 Listed controlled substances.

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

(1) AB-001;

(2) AB-PINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide;

(3) AB-FUBINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl) methyl]-1H-indazole-3-carboxamide;
(4) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);
(5) ADB-CHMINACA (N-[(2S)-1-amino-3,3-dimethyl-1-oxobutan-2-yl]-1-(cyclohexylmethyl)indazole-3-carboxamide);
(6) ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1oxobutan-2-yl)-1- (4-fluorobenzyl)-1H-indazole-3-caboxamide);
(7) AKB48;
(8) alpha-Pyrrolidinohexanophenone (alpha-PHP) (1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one);
(9) alpha-Pyrrolidinovalerophenone (alpha-PVP);
(10) AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone);
(11) AM-1248;
(12) AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole);
(13) AM-2233;
(14) AM-679;
(15) A796,260;
(16) Butylone;
(17) CP 47,497 and its C6, C8, and C9 homologs (2-[(1R,3S)-3-hydroxycyclohexyl] -5-(2-methyloctan-2-yl)phenol);
(18) Diisopropyltryptamine (DiPT);
(19) Ethylone;
(20) Ethylphenidate;
(21) Fluoroisocathinone;
(22) Fluoromethamphetamine;
(23) Fluoromethcathinone;
(24) FUB-AMB; methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)valinate;
(25) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
(26) HU-211; Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
(27) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
(28) JWH-018; Naphthalen-1-yl-(pentylindol-3-yl)methanone {also known as 1-Pentyl-3-(1-naphthoyl)indole};
(29) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
(30) JWH-073; Naphthalen-1-yl(1-butylindol-3-yl)methanone {also known as 1-Butyl-3-(1-naphthoyl)indole};
(31) JWH-081; 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;
(32) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
(33) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;
(34) JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;
(35) JWH-210; 4-ethyl-1-naphthalenyl(1-pentyl-1H-indol-3-yl)-methanone;
(36) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;
(37) JWH-251; 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;
(38) JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;
(39) MAM-2201;
(40) MAM-2201; (1-(5-fluoropentyl)-1H-indol-3-yl)(4-ethyl-1-naphthalenyl)-methanone;
(41) Methoxetamine;

(42) Naphyrone;
(43) PB-22; 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester;
(44) Pentedrone;
(45) Pentylone;
(46) RCS-4; 1-pentyl-3-(4-methoxybenzoyl)indole;
(47) RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as BTW-8 and SR-18};
(48) STS-135;
(49) UR-144;
(50) UR-144 N-(5-chloropentyl) analog;
(51) XLR11;
(52) 2C-C;
(53) 2C-D;
(54) 2C-E;
(55) 2C-H;
(56) 2C-I;
(57) 2C-N;
(58) 2C-P;
(59) 2C-T-2;
(60) 2C-T-4;
(61) 2NE1;
(62) 25I-NBOMe;
(63) 2,5-Dimethoxy-4-chloroamphetamine (DOC);
(64) 4-Fluoro MDMB-BUTINACA (Methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate);
(65) 4-methylmethcathinone {also known as mephedrone};
(66) 3,4-methylenedioxypyrovalerone {also known as MDPV};
(67) 3,4-Methylenedioxymethcathinone {also known as methylone};
(68) 4-methoxymethcathinone;
(69) 4-Methyl-alpha-pyrrolidinopropiophenone;
(70) 4-Methylethcathinone;
(71) 5F-AKB48; 1-(5-flouropentyl)-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3- carboxamide;
(72) 5-Fluoro ADB (Methyl N-{[1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl}-3-methyl-valinate);
(73) 5-Fluoro AMB (Methyl N-{[1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl}valinate);
(74) 5-fluoro-PB-22; 1-(5-fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester;
(75) 5-Iodo-2-aminoindane (5-IAI);
(76) 5-MeO-DALT;
(77) 25B-NBOMe; 2-(r-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl) methyl]ethanamine;
(78) 25C-NBOMe; 2-(4Chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl) methyl]ethanamine; and
(79) 25H-NBOMe; 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine.

Amended by Chapter 26, 2020 General Session

58-37-5.5 Recognized controlled substance analogs.
(1) A substance listed under Subsection (2) is an analog, as defined in Subsection 58-37-2(1)(g), if the substance, in any quantity, and in any material, compound, mixture, or preparation, is present in:

(a) any product manufactured, distributed, or possessed for the purpose of human consumption; or
(b) any product, the use or administration of which results in human consumption.
(2) Substances referred to in Subsection (1) include, but are not limited to:
(a) gamma butyrolactone (GBL);
(b) butyrolactone;
(c) 1,2 butanolide;
(d) 2-oxanolone;
(e) tetrahydro-2-furanone;
(f) dihydro-2 (3H)-furanone;
(g) tetramethylene glycol;
(h) 1,4 butanediol; and
(i) gamma valerolactone.

Amended by Chapter 250, 2008 General Session

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

(1)
(a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.
(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.
(2)
(a)
(i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.
(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.
(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:
(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or

detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

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

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

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

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

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

(3)

(a)

(i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether the applicant has:

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

(B) complied with applicable state and local law;

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

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

(E) established effective controls against diversion; and

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

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

(c)

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

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

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

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

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon providing the division with evidence of federal registration.

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

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

(4)

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

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

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

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

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

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

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

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

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

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

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c)

(i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is

designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d)

(i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e)

(i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5)

(a) A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b)

(i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other individual who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by the individual and a record of all drugs administered, dispensed, or professionally used by the individual otherwise than by a prescription.

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

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

(7)

(a) An individual may not write or authorize a prescription for a controlled substance unless the individual is:

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

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

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

(c)
(i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.
(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).
(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.
(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).
(d) Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:
(i) the name, address, and registry number of the prescriber;
(ii) the name, address, and age of the person to whom or for whom the prescription is issued;
(iii) the date of issuance of the prescription; and
(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.
(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:
(i) the individual who writes the prescription is licensed under Subsection (2); and
(ii) the prescribed controlled substance is to be used in research.
(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).
(i) A prescription for a Schedule II substance may not be refilled.
(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.
(iii)
(A) A prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.
(B) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.
(C) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).
(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.
(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.
(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

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

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

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

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

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

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

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

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

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

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of Subsection (7)(h), "child" has the same meaning as defined in Section 80-1-102, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

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

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

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

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

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

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

(8)

(a)
(i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.
(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).
(iii) The director may collect a penalty that is not paid by:
(A) referring the matter to a collection agency; or
(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.
(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.
(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.
(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:
(i) upon first conviction, guilty of a class B misdemeanor;
(ii) upon second conviction, guilty of a class A misdemeanor; and
(iii) on third or subsequent conviction, guilty of a third degree felony.
(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.
(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.
(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.
(11)
(a) As used in this Subsection (11):
(i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that is written to continue for longer than 30 consecutive days.
(ii) "Database" means the controlled substance database created in Section 58-37f-201.
(b) A practitioner who issues a high risk prescription to a patient shall, before issuing the high risk prescription to the patient, verify in the database that the patient does not have a high risk prescription from a different practitioner that is currently active.
(c) If the database shows that the patient has received a high risk prescription that is currently active from a different practitioner, the practitioner may not issue a high risk prescription to the patient unless the practitioner:
(i) contacts and consults with each practitioner who issued a high risk prescription that is currently active to the patient;
(ii) documents in the patient's medical record that the practitioner made contact with each practitioner in accordance with Subsection (11)(c)(i); and
(iii) documents in the patient's medical record the reason why the practitioner believes that the patient needs multiple high risk prescriptions from different practitioners.
(d) A practitioner shall satisfy the requirement described in Subsection (11)(c) in a timely manner, which may be after the practitioner issues the high risk prescription to the patient.

Amended by Chapter 415, 2022 General Session

58-37-6.5 Continuing education for controlled substance prescribers.

(1) For the purposes of this section:

(a) "Controlled substance prescriber" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under this chapter; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe schedule II controlled substances and schedule III controlled substances that are applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

(b) "D.O." means an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "FDA" means the United States Food and Drug Administration.

(d) "M.D." means a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act.

(e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration or defined by the division, in consultation with the Office of Substance Use and Mental Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)

(a) Beginning with the licensing period that begins after January 1, 2014, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours per licensing period that satisfy the requirements of Subsection (3).

(b)

(i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection (4).

(ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i), fulfills the continuing education hours requirement in Subsection (3) for the licensing period in which the class was completed.

(iii) A controlled substance prescriber:

(A) need only take the SBIRT-training class once during the controlled substance prescriber's licensure in the state; and

(B) shall provide a completion record of the SBIRT-training class in order to be reimbursed for SBIRT services to patients, in accordance with Sections 26B-3-131 and 49-20-416.

(3) A controlled substance prescriber shall complete at least 3.5 hours of continuing education in one or more controlled substance prescribing classes, except dentists who shall complete at least two hours, that satisfy the requirements of Subsections (4) and (6).

(4) A controlled substance prescribing class shall:

(a) satisfy the division's requirements for the continuing education required for the renewal of the controlled substance prescriber's respective license type;

(b) be delivered by an accredited or approved continuing education provider recognized by the division as offering continuing education appropriate for the controlled substance prescriber's respective license type; and

(c) include a postcourse knowledge assessment.

(5) An M.D. or D.O. completing continuing professional education hours under Subsection (4) shall complete those hours in classes that qualify for the American Medical Association Physician's Recognition Award Category 1 Credit.
(6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:
(a) the scope of the controlled substance abuse problem in Utah and the nation;
(b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;
(c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;
(d) patient record documentation for controlled substance and opioid prescribing;
(e) office policies, procedures, and implementation; and
(f) some training regarding medical cannabis, as that term is defined in Section 26B-4-201.
(7)
(a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for an M.D. or D.O.
(b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber other than an M.D. or D.O.
(c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber.
(d) The division shall consult with the Department of Health and Human Services regarding the medical cannabis training described in Subsection (6)(f).
(8) A controlled substance prescribing class required under this section:
(a) may be held:
(i) in conjunction with other continuing professional education programs; and
(ii) online; and
(b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.
(9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.
(10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection (3) for two consecutive licensing periods.

Amended by Chapter 329, 2023 General Session

58-37-7 Labeling and packaging controlled substance -- Informational pamphlet for opiates -- Naloxone education and offer to dispense.

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of Section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.
(3) Whenever a pharmacy sells or dispenses any controlled substance on a prescription issued by a practitioner, the pharmacy shall affix to the container in which the substance is sold or dispensed:
(a) a label showing the:
(i) pharmacy name and address;
(ii) serial number; and
(iii) date of initial filling;
(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;
(c) the name of the practitioner by whom the prescription was written;
(d) any directions stated on the prescription; and
(e) any directions required by rules and regulations promulgated by the department.
(4) Whenever a pharmacy sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, the pharmacy shall:
(a) affix a warning to the container or the lid for the container in which the substance is sold or dispensed that contains the following text:
(i) "Caution: Opioid. Risk of overdose and addiction"; or
(ii) any other language that is approved by the Department of Health and Human Services;
(b) beginning January 1, 2024:
(i) offer to counsel the patient or the patient's representative on the use and availability of an opioid antagonist as defined in Section 26B-4-501; and
(ii) offer to dispense an opioid antagonist as defined in Section 26B-4-501 to the patient or the patient's representative, under a prescription from a practitioner or under Section 26B-4-510, if the patient:
(A) receives a single prescription for 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention;
(B) is being dispensed an opioid and the pharmacy dispensed a benzodiazepine to the patient in the previous 30 day period; or
(C) is being dispensed a benzodiazepine and the pharmacy dispensed an opioid to the patient in the previous 30 day period.
(5)
(a) A pharmacy who sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate shall, if available from the Department of Health and Human Services, prominently display at the point of sale the informational pamphlet developed by the Department of Health and Human Services under Section 26B-4-514.
(b) The board and the Department of Health and Human Services shall encourage pharmacies to use the informational pamphlet to engage in patient counseling regarding the risks associated with taking opiates.
(c) The requirement in Subsection (5)(a) does not apply to a pharmacy if the pharmacy is unable to obtain the informational pamphlet from the Department of Health and Human Services for any reason.
(6) A person may not alter the face or remove any label so long as any of the original contents remain.
(7)

(a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to the individual by the person selling or dispensing it.
(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

Amended by Chapter 285, 2023 General Session
Amended by Chapter 329, 2023 General Session

Superseded 7/1/2024
58-37-8 Prohibited acts -- Penalties.
(1) Prohibited acts A -- Penalties and reporting:
(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:
(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;
(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;
(iii) possess a controlled or counterfeit substance with intent to distribute; or
(iv) engage in a continuing criminal enterprise where:
(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and
(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.
(b) A person convicted of violating Subsection (1)(a) with respect to:
(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;
(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or
(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.
(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person

convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d)

(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

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

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

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

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

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

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

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

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

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

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or

other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

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

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

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

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

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

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

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

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

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

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

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

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

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

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

(b)

(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;
(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;
(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;
(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;
(v) in or on the grounds of a house of worship as defined in Section 76-10-501;
(vi) in or on the grounds of a library when the library is open to the public;
(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);
(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or
(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b)
(i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.
(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d)
(i) If the violation is of Subsection (4)(a)(ix):
(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and
(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and
(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:
(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or
(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

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

(6)
(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the

charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

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

(8)

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

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

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

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

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

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

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12)

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

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

(c)

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

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

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

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

(13)

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

(i) engaged in medical research; and

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

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

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

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

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

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16)

(a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26B-4-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

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

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Amended by Chapter 312, 2023 General Session
Amended by Chapter 329, 2023 General Session

Effective 7/1/2024

58-37-8 Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

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

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

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

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

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

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

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

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

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

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

(d)

(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

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

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

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

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

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

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

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

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

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

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

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

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

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

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

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

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

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

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

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

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

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

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

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

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

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

(b)

(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

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

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b)

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

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

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d)

(i) If the violation is of Subsection (4)(a)(ix):

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

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

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

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

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

(6)

(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

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

(8)

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

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

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

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

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

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

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment;or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12)

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

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by

an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c)

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

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

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

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

(13)

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

(i) engaged in medical research; and

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

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

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

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

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

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16)

(a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

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

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Amended by Chapter 310, 2023 General Session
Amended by Chapter 312, 2023 General Session
Amended by Chapter 329, 2023 General Session

58-37-8.5 Applicability of Title 76 prosecutions under this chapter.

Unless specifically excluded in or inconsistent with the provisions of this chapter, the provisions of Title 76, Chapter 1, General Provisions, Chapter 2, Principles of Criminal Responsibility, Chapter 3, Punishments, and Chapter 4, Inchoate Offenses, are fully applicable to prosecutions under this chapter.

Enacted by Chapter 64, 1997 General Session

58-37-9 Investigators -- Status of peace officers.

Investigators for the Department of Commerce shall for the purpose of enforcing the provisions of this chapter have the status of peace officers.

Amended by Chapter 20, 1995 General Session

58-37-10 Search warrants -- Administrative inspection warrants -- Inspections and seizures of property without warrant.

(1) Search warrants relating to offenses involving controlled substances may be authorized pursuant to the Utah Rules of Criminal Procedure.

(2) Issuance and execution of administrative inspection warrants shall be as follows:

(a) Any judge or magistrate of this state within his jurisdiction upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. Probable cause for purposes of this act exists upon showing a valid public interest in the effective enforcement of the act or rules promulgated thereunder sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(b) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged sworn to before a judge or magistrate which establish the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be inspected, if any. The warrant shall:

(i) state the grounds for its issuance and the name of each person whose affidavit has been taken to support it;

(ii) be directed to a person authorized by Section 58-37-9 of this act to execute it;

(iii) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and if appropriate, direct the seizure of the property specified;

(iv) identify the item or types of property to be seized, if any; and

(v) direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned.

(c) A warrant issued pursuant to this section must be executed and returned within 10 days after its date unless, upon a showing of a need for additional time, the court instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or leave the copy and receipt at the place where the property was taken. Return of the warrant shall be made promptly and be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(d) The judge or magistrate who issued the warrant under this section shall attach a copy of the return and all other papers to the warrant and file them with the court.

(3) The department is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(a) For purposes of this section only, "controlled premises" means:

(i) Places where persons licensed or exempted from licensing requirements under this act are required to keep records.

(ii) Places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(b) When authorized by an administrative inspection warrant a law enforcement officer or employee designated in Section 58-37-9, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

(c) When authorized by an administrative inspection warrant, a law enforcement officer or employee designated in Section 58-37-9 has the right:
(i) To inspect and copy records required by this chapter.
(ii) To inspect within reasonable limits and a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found, and except as provided in Subsection (3)(e), all other things including records, files, papers, processes, controls, and facilities subject to regulation and control by this chapter or by rules promulgated by the department.
(iii) To inventory and take stock of any controlled substance and obtain samples of any substance.
(d) This section shall not be construed to prevent the inspection of books and records without a warrant pursuant to an administrative subpoena issued by a court or the department nor shall it be construed to prevent entries and administrative inspections including seizures of property without a warrant:
(i) with the consent of the owner, operator, or agent in charge of the controlled premises;
(ii) in situations presenting imminent danger to health or safety;
(iii) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
(iv) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and
(v) in all other situations where a warrant is not constitutionally required.
(e) No inspection authorized by this section shall extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

Amended by Chapter 278, 2013 General Session

58-37-11 District court jurisdiction to enjoin violations -- Jury trial.
(1) The district courts of this state shall have jurisdiction in proceedings in accordance with the rules of those courts to enjoin violations of this act.
(2) If an alleged violation of an injunction or restraining order issued under this section occurs, the accused may demand a jury trial in accordance with the rules of the district courts.

Enacted by Chapter 145, 1971 General Session

58-37-12 Enforcement -- Coordination and cooperation of federal and state agencies -- Powers.
The department and all law enforcement agencies charged with enforcing this act shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they are authorized to:
(1) Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances.
(2) Coordinate and cooperate in training programs in controlled substance law enforcement at the local and state levels.
(3) Cooperate with the United States Department of Justice and the Utah Department of Public Safety by establishing a centralized unit which will receive, catalog, file, and collect statistics, including records of drug-dependent persons and other controlled substance law

offenders within the state, and make the information available for federal, state, and local law enforcement purposes.
(4) Conduct programs of eradication aimed at destroying the wild or illicit growth of plant species from which controlled substances may be extracted.

Amended by Chapter 64, 1997 General Session

58-37-14 Resort for illegal use or possession of controlled substances deemed common nuisance -- District court power to suppress and enjoin.
(1) Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or other place to which users or possessors of any controlled substances, listed in schedules I through V, resort or where use or possession of any substances violates this act, or which is used for illegal keeping, storing, or selling any substances listed as controlled substances in schedules I through V shall be deemed a common nuisance. No person shall open, keep, or maintain any such place.
(2) The district court has the power to make any order necessary or reasonable to suppress any nuisance and to enjoin any person or persons from doing any act calculated to cause, or permit the continuation of a nuisance.

Enacted by Chapter 145, 1971 General Session

58-37-15 Burden of proof in proceedings on violations -- Enforcement officers exempt from liability.
(1) It is not necessary for the state to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or trial, hearing, or other proceeding under this act, and the burden of proof of any exemption or exception is upon the person claiming its benefit.
(2) In absence of proof that a person is the duly authorized holder of an appropriate license, registration, order form, or prescription issued under this act, he shall be presumed not to be the holder of a license, registration, order form, or prescription, and the burden of proof is upon him to rebut the presumption.
(3) No liability shall be imposed upon any duly authorized state or federal officer engaged in the enforcement of this act who is engaged in the enforcement of any law, municipal ordinance, or regulation relating to controlled substances.

Enacted by Chapter 145, 1971 General Session

58-37-17 Judicial review.
(1) Any person aggrieved by a department's final order may obtain judicial review.
(2) Venue for judicial review of informal adjudicative proceedings is in the district court of Salt Lake County.

Amended by Chapter 161, 1987 General Session

58-37-18 Prior prosecutions and proceedings continued -- Uniform construction.
(1)
(a) Prosecution for violation of any law or offense occurring prior to the effective date of this act shall not be affected by this act; provided, that sentences imposed after the effective date of

this act may not exceed the maximum terms specified and the judge has discretion to impose any minimum sentence.

(b) Civil seizures, forfeitures, and injunctive proceedings commenced prior to the effective date of this act shall not be affected by this act.

(c) All administrative proceedings pending before any agency or court on the effective date of this act shall be continued and brought to final determination in accordance with laws and regulations in effect prior to the effective date of this act. Drugs placed under control prior to enactment of this act which are not listed within schedules I through V shall be automatically controlled and listed in the appropriate schedule without further proceedings.

(2) This act does not affect rights and duties that mature, penalties that are incurred, and proceedings that are begun before its effective date.

(3) This act shall be construed to effectuate its general purpose to make uniform the law of those states which enact it where laws are similar to this act.

Enacted by Chapter 145, 1971 General Session

58-37-19 Opiate prescription consultation -- Prescription for opioid antagonist required.

(1) As used in this section:

(a) "Initial opiate prescription" means a prescription for an opiate to a patient who:

(i) has never previously been issued a prescription for an opiate; or

(ii) was previously issued a prescription for an opiate, but the date on which the current prescription is being issued is more than one year after the date on which an opiate was previously prescribed or administered to the patient.

(b) "Opioid antagonist" means the same as that term is defined in Section 26B-4-501.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under this chapter.

(2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate prescription without discussing with the patient, or the patient's parent or guardian if the patient is under 18 years old and is not an emancipated minor:

(a) the risks of addiction and overdose associated with opiate drugs;

(b) the dangers of taking opiates with alcohol, benzodiazepines, and other central nervous system depressants;

(c) the reasons why the prescription is necessary;

(d) alternative treatments that may be available; and

(e) other risks associated with the use of the drugs being prescribed.

(3) Subsection (2) does not apply to a prescription for:

(a) a patient who is currently in active treatment for cancer;

(b) a patient who is receiving hospice care from a licensed hospice as defined in Section 26B-2-201; or

(c) a medication that is being prescribed to a patient for the treatment of the patient's substance abuse or opiate dependence.

(4)

(a) Beginning January 1, 2024, a prescriber shall offer to prescribe or dispense an opioid antagonist to a patient if the patient receives an initial opiate prescription for:

(i) 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention; or

(ii) any opiate if the practitioner is also prescribing a benzodiazepine to the patient.

(b) Subsection (4)(a) does not apply if the initial opiate prescription:

(i) is administered directly to an ultimate user by a licensed practitioner; or
(ii) is for a three-day supply or less.
(c) This Subsection (4) does not require a patient to purchase or obtain an opioid antagonist as a condition of receiving the patient's initial opiate prescription.

Amended by Chapter 285, 2023 General Session
Amended by Chapter 329, 2023 General Session

58-37-22 Electronic prescriptions for controlled substances.

(1) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:
(a) for a patient residing in an assisted living facility as that term is defined in Section 26B-2-201, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;
(b) issued by a veterinarian licensed under Chapter 28, Veterinary Practice Act;
(c) dispensed by a Department of Veterans Affairs pharmacy;
(d) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or
(e) issued in an emergency situation.
(2) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
(a) require that controlled substances prescribed or dispensed under Subsection (1)(d) indicate on the prescription that the prescribing practitioner or the pharmacy is experiencing a technical difficulty or an electronic failure;
(b) define an emergency situation for purposes of Subsection (1)(e);
(c) establish additional exemptions to the electronic prescription requirements established in this section;
(d) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (1);
(e) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and
(f) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.
(3) Beginning July 1, 2024, a pharmacy software program for receiving an electronic prescription for a controlled substance shall be capable of electronically transferring a prescription to a different pharmacy:
(a) upon the request of the patient or the practitioner;
(b) with the approval of a pharmacist at the originating pharmacy; and
(c) if the prescription is unfilled.

Amended by Chapter 329, 2023 General Session

58-37-23 Methadone orders authorized.

(1) As used in this section:
(a) "Emergency medical order" means a medical order as defined in Section 58-17b-102 for up to a 72-hour supply of methadone.

(b) "General acute hospital" means the same as that term is defined in Section 26B-2-201.
(c) "Qualified pharmacy" means a pharmacy that is located on the premises of a general acute hospital that is licensed as a:
(i) class A pharmacy as defined in Section 58-17b-102; or
(ii) class B pharmacy as defined in Section 58-17b-102.
(d) "Qualified practitioner" means a practitioner who:
(i) is registered with the United States Drug Enforcement Administration to issue an emergency medical order; and
(ii) is working at a general acute hospital.
(2) A qualified practitioner may issue an emergency medical order to a qualified pharmacy to dispense up to a 72-hour supply of methadone on behalf of the qualified practitioner:
(a) to relieve acute withdrawal symptoms while the qualified practitioner makes arrangements to refer the patient for substance use disorder treatment; and
(b) in accordance with 21 C.F.R. Sec. 1306.07 and applicable regulation or guidance issued by the United States Drug Enforcement Administration regarding an emergency medical order.

Enacted by Chapter 323, 2023 General Session