

CONTROLLED SUBSTANCES AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Controlled Substances Act.

Highlighted Provisions:

This bill:

- ▶ expands the definition of a controlled substance to include kratom, an organic psychoactive substance;
 - ▶ provides that it is an affirmative defense that the person produced, possessed, or administered kratom if the person:
 - was engaged in medical research; and
 - was a holder of a license to possess controlled substances for research;
 - ▶ adds kratom to the driver license provisions regarding driving under the influence;
- and
- ▶ provides that a legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of the Utah Controlled Substances Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:



28 AMENDS:

29 **41-6a-517**, as last amended by Laws of Utah 2009, Chapter 390

30 **58-37-2 (Superseded 07/01/11)**, as last amended by Laws of Utah 2010, Chapters 64

31 and 101

32 **58-37-2 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapters 64, 101,

33 and 276

34 **58-37-3**, as last amended by Laws of Utah 1997, Chapter 64

35 **58-37-4**, as last amended by Laws of Utah 2010, Chapter 106

36 **58-37-6**, as last amended by Laws of Utah 2010, Chapter 287

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

38 ENACTS:

39 **58-37-4.2**, Utah Code Annotated 1953



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

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

43 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
44 **body -- Penalties -- Arrest without warrant.**

45 (1) As used in this section:

46 (a) "Controlled substance" ~~[means any substance scheduled under Section 58-37-4.]~~
47 has the same meaning as in Section 58-37-2.

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

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

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

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

54 (3) It is an affirmative defense to prosecution under this section that the controlled
55 substance was:

56 (a) involuntarily ingested by the accused;

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

58 (c) otherwise legally ingested.

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

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

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

67 (6) The Driver License Division shall:

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

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

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

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

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

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

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

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

77 (i) suspend, until the person is 21 years of age or for a period of 120 days, the driver
78 license of a person convicted under Subsection (2) of an offense committed on or after July 1,
79 2009; or

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

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

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

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

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

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

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

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

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

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

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

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

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

102 **58-37-2 (Superseded 07/01/11). Definitions.**

103 (1) As used in this chapter:

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

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

108 or

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

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

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

117 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
118 partnership, corporation, business trust, association, or other legal entity, and any union or
119 groups of individuals associated in fact although not a legal entity, and includes illicit as well
120 as licit entities created or maintained for the purpose of engaging in conduct which constitutes

121 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
122 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
123 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
124 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
125 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
126 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
127 unlawful conduct and be related either to each other or to the enterprise.

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

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

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

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

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

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

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

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

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

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

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

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

149 (g) (i) "Controlled substance analog" means a substance the chemical structure of
150 which is substantially similar to the chemical structure of a controlled substance listed in
151 Schedules I and II of Section 58-37-4, or in Schedules I and II of the federal Controlled

152 Substances Act, Title II, P.L. 91-513, or listed in Section 58-37-4.2:

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

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

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

162 (A) a controlled substance currently scheduled in Schedules I through V of Section
163 58-37-4 or listed in Section 58-37-4.2;

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

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

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

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

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

178 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or
179 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,
180 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state
181 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,
182 37c, or 37d.

- 183 (i) "Counterfeit substance" means:
- 184 (i) any controlled substance or container or labeling of any controlled substance that:
- 185 (A) without authorization bears the trademark, trade name, or other identifying mark,
- 186 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
- 187 other than the person or persons who in fact manufactured, distributed, or dispensed the
- 188 substance which falsely purports to be a controlled substance distributed by any other
- 189 manufacturer, distributor, or dispenser; and
- 190 (B) a reasonable person would believe to be a controlled substance distributed by an
- 191 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
- 192 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
- 193 substance; or
- 194 (ii) any substance other than under Subsection (1)(i)(i) that:
- 195 (A) is falsely represented to be any legally or illegally manufactured controlled
- 196 substance; and
- 197 (B) a reasonable person would believe to be a legal or illegal controlled substance.
- 198 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
- 199 controlled substance or a listed chemical, whether or not an agency relationship exists.
- 200 (k) "Department" means the Department of Commerce.
- 201 (l) "Depressant or stimulant substance" means:
- 202 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric
- 203 acid;
- 204 (ii) a drug which contains any quantity of:
- 205 (A) amphetamine or any of its optical isomers;
- 206 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- 207 (C) any substance which the Secretary of Health and Human Services or the Attorney
- 208 General of the United States after investigation has found and by regulation designated
- 209 habit-forming because of its stimulant effect on the central nervous system;
- 210 (iii) lysergic acid diethylamide; or
- 211 (iv) any drug which contains any quantity of a substance which the Secretary of Health
- 212 and Human Services or the Attorney General of the United States after investigation has found
- 213 to have, and by regulation designated as having, a potential for abuse because of its depressant

214 or stimulant effect on the central nervous system or its hallucinogenic effect.

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

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

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

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

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

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

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

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

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

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

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

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

241 (t) "Food" means:

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

244 (ii) foods for special dietary uses as exist by reason of a physical, physiological,

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

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

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

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

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

262 (ii) which is practiced by Indians.

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

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

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

274 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
275 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every

276 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
277 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,
278 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
279 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
280 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
281 synthetic equivalents of the substances contained in the plant cannabis sativa or any other
282 species of the genus cannabis which are chemically indistinguishable and pharmacologically
283 active are also included.

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

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

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

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

292 (iii) opium poppy and poppy straw; or

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

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

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

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

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

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

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

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

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

325 (i) orally or in writing; or

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

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

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

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

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

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

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

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

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

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

344 **58-37-2 (Effective 07/01/11). Definitions.**

345 (1) As used in this chapter:

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

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

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

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

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

359 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
360 partnership, corporation, business trust, association, or other legal entity, and any union or
361 groups of individuals associated in fact although not a legal entity, and includes illicit as well
362 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
363 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
364 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
365 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
366 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
367 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
368 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing

369 unlawful conduct and be related either to each other or to the enterprise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

399 (B) which, with respect to a particular individual, is represented or intended to have a

400 stimulant, depressant, or hallucinogenic effect on the central nervous system substantially
401 similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of
402 controlled substances in the schedules or list set forth in this Subsection (1).

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

404 (A) a controlled substance currently scheduled in Schedules I through V of Section
405 58-37-4;

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

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

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

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

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

420 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or
421 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,
422 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state
423 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,
424 37c, or 37d.

425 (i) "Counterfeit substance" means:

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

427 (A) without authorization bears the trademark, trade name, or other identifying mark,
428 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
429 other than the person or persons who in fact manufactured, distributed, or dispensed the
430 substance which falsely purports to be a controlled substance distributed by any other

431 manufacturer, distributor, or dispenser; and

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

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

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

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

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

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

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

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

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

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

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

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

452 (iii) lysergic acid diethylamide; or

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

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

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

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

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

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

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

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

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

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

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

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

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

483 (t) "Food" means:

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

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

493 purposes.

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

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

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

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

504 (ii) which is practiced by Indians.

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

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

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

516 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
517 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every
518 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
519 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,
520 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
521 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
522 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
523 synthetic equivalents of the substances contained in the plant cannabis sativa or any other

524 species of the genus cannabis which are chemically indistinguishable and pharmacologically
525 active are also included.

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

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

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

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

534 (iii) opium poppy and poppy straw; or

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

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

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

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

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

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

551 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
552 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
553 or consumption, as distinguished from distribution, of controlled substances and includes
554 individual, joint, or group possession or use of controlled substances. For a person to be a

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

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

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

567 (i) orally or in writing; or

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

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

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

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

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

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

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

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

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

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

586 **58-37-3. Controlled substances.**587 (1) All substances listed in Section 58-37-4 or 58-37-4.2 are [~~considered~~] controlled.588 (2) All substances listed in the federal Controlled Substances Act, Title II, P.L. 91-513,
589 are [~~considered~~] controlled.590 Section 5. Section **58-37-4** is amended to read:591 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**
592 **required -- Specific substances included in schedules.**593 (1) There are established five schedules of controlled substances known as Schedules I,
594 II, III, IV, and V which [~~shall~~] consist of substances listed in this section.595 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by
596 the official name, common or usual name, chemical name, or brand name designated:

597 (a) Schedule I:

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

602 (A) Acetyl-alpha-methylfentanyl

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

604 (B) Acetylmethadol;

605 (C) Allylprodine;

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

608 (E) Alphameprodine;

609 (F) Alphamethadol;

610 (G) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]
611 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);612 (H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
613 piperidinyl]-N-phenylpropanamide);

614 (I) Benzethidine;

615 (J) Betacetylmethadol;

616 (K) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-

- 617 piperidinyl]-N-phenylpropanamide);
- 618 (L) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-
- 619 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- 620 (M) Betameprodine;
- 621 (N) Betamethadol;
- 622 (O) Betaprodine;
- 623 (P) Clonitazene;
- 624 (Q) Dextromoramide;
- 625 (R) Diampromide;
- 626 (S) Diethylthiambutene;
- 627 (T) Difenoxin;
- 628 (U) Dimenoxadol;
- 629 (V) Dimepheptanol;
- 630 (W) Dimethylthiambutene;
- 631 (X) Dioxaphetyl butyrate;
- 632 (Y) Dipipanone;
- 633 (Z) Ethylmethylthiambutene;
- 634 (AA) Etonitazene;
- 635 (BB) Etoxidine;
- 636 (CC) Furethidine;
- 637 (DD) Hydroxypethidine;
- 638 (EE) Ketobemidone;
- 639 (FF) Levomoramide;
- 640 (GG) Levophenacymorphan;
- 641 (HH) Morpheridine;
- 642 (II) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 643 (JJ) Noracymethadol;
- 644 (KK) Norlevorphanol;
- 645 (LL) Normethadone;
- 646 (MM) Norpipanone;
- 647 (NN) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]

- 648 propanamide;
- 649 (OO) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 650 (PP) Phenadoxone;
- 651 (QQ) Phenampromide;
- 652 (RR) Phenomorphan;
- 653 (SS) Phenoperidine;
- 654 (TT) Piritramide;
- 655 (UU) Proheptazine;
- 656 (VV) Properidine;
- 657 (WW) Propiram;
- 658 (XX) Racemoramide;
- 659 (YY) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide);
- 660 (ZZ) Tilidine;
- 661 (AAA) Trimeperidine;
- 662 (BBB) 3-methylfentanyl, including the optical and geometric isomers
- 663 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide); and
- 664 (CCC) 3-methylthiofentanyl
- 665 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
- 666 (ii) Unless specifically excepted or unless listed in another schedule, any of the
- 667 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
- 668 salts, isomers, and salts of isomers is possible within the specific chemical designation:
- 669 (A) Acetorphine;
- 670 (B) Acetyldihydrocodeine;
- 671 (C) Benzylmorphine;
- 672 (D) Codeine methylbromide;
- 673 (E) Codeine-N-Oxide;
- 674 (F) Cyprenorphine;
- 675 (G) Desomorphine;
- 676 (H) Dihydromorphine;
- 677 (I) Drotebanol;
- 678 (J) Etorphine (except hydrochloride salt);

- 679 (K) Heroin;
- 680 (L) Hydromorphenol;
- 681 (M) Methylodesorphine;
- 682 (N) Methylhydromorphine;
- 683 (O) Morphine methylbromide;
- 684 (P) Morphine methylsulfonate;
- 685 (Q) Morphine-N-Oxide;
- 686 (R) Myrophine;
- 687 (S) Nicocodeine;
- 688 (T) Nicomorphine;
- 689 (U) Normorphine;
- 690 (V) Pholcodine; and
- 691 (W) Thebacon.
- 692 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 693 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
- 694 substances, or which contains any of their salts, isomers, and salts of isomers when the
- 695 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
- 696 designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position,
- 697 and geometric isomers:
- 698 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
- 699 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;
- 700 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:
- 701 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- 702 (C) 4-bromo-2,5-dimethoxypenethylamine, some trade or other names:
- 703 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 704 (D) 2,5-dimethoxyamphetamine, some trade or other names:
- 705 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 706 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- 707 (F) 4-methoxyamphetamine, some trade or other names:
- 708 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- 709 (G) 5-methoxy-3,4-methylenedioxyamphetamine;

- 710 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:
711 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
712 (I) 3,4-methylenedioxy amphetamine;
713 (J) 3,4-methylenedioxymethamphetamine (MDMA);
714 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
715 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
716 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
717 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
718 (M) 3,4,5-trimethoxy amphetamine;
719 (N) Bufotenine, some trade and other names:
720 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
721 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
722 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
723 (P) Dimethyltryptamine, some trade or other names: DMT;
724 (Q) Ibogaine, some trade and other names:
725 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
726 [5,4-b] indole; Tabernanthe iboga;
727 (R) Lysergic acid diethylamide;
728 (S) Marijuana;
729 (T) Mescaline;
730 (U) Parahexyl, some trade or other names:
731 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
732 (V) Peyote, meaning all parts of the plant presently classified botanically as
733 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
734 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
735 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
736 (W) N-ethyl-3-piperidyl benzilate;
737 (X) N-methyl-3-piperidyl benzilate;
738 (Y) Psilocybin;
739 (Z) Psilocyn;
740 (AA) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the

741 plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives,
742 and their isomers with similar chemical structure and pharmacological activity such as the
743 following: Δ 1 cis or trans tetrahydrocannabinol, and their optical isomers Δ 6 cis or trans
744 tetrahydrocannabinol, and their optical isomers Δ 3,4 cis or trans tetrahydrocannabinol, and its
745 optical isomers, and since nomenclature of these substances is not internationally standardized,
746 compounds of these structures, regardless of numerical designation of atomic positions
747 covered;

748 (BB) Ethylamine analog of phencyclidine, some trade or other names:

749 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
750 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

751 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:

752 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

753 (DD) Thiophene analog of phencyclidine, some trade or other names:

754 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TCP, TCP; and

755 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

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

761 (A) Mecloqualone; and

762 (B) Methaqualone.

763 (v) Any material, compound, mixture, or preparation containing any quantity of the
764 following substances having a stimulant effect on the central nervous system, including their
765 salts, isomers, and salts of isomers:

766 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
767 4,5-dihydro-5-phenyl-2-oxazolamine;

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

770 (C) Fenethylamine;

771 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;

- 772 alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one;
773 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
774 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
775 optical isomers;
- 776 (E) (\pm)cis-4-methylaminorex ((\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
777 (F) N-ethylamphetamine; and
778 (G) N,N-dimethylamphetamine, also known as
779 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.
- 780 (vi) Any material, compound, mixture, or preparation which contains any quantity of
781 the following substances, including their optical isomers, salts, and salts of isomers, subject to
782 temporary emergency scheduling:
- 783 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
784 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).
- 785 (vii) Unless specifically excepted or unless listed in another schedule, any material,
786 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
787 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.
- 788 (b) Schedule II:
- 789 (i) Unless specifically excepted or unless listed in another schedule, any of the
790 following substances whether produced directly or indirectly by extraction from substances of
791 vegetable origin, or independently by means of chemical synthesis, or by a combination of
792 extraction and chemical synthesis:
- 793 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
794 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
795 and their respective salts, but including:
- 796 (I) Raw opium;
797 (II) Opium extracts;
798 (III) Opium fluid;
799 (IV) Powdered opium;
800 (V) Granulated opium;
801 (VI) Tincture of opium;
802 (VII) Codeine;

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

- 834 (G) Dihydrocodeine;
- 835 (H) Diphenoxylate;
- 836 (I) Fentanyl;
- 837 (J) Isomethadone;
- 838 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
- 839 levomethadyl acetate, or LAAM;
- 840 (L) Levomethorphan;
- 841 (M) Levorphanol;
- 842 (N) Metazocine;
- 843 (O) Methadone;
- 844 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 845 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
- 846 acid;
- 847 (R) Pethidine (meperidine);
- 848 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 849 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 850 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 851 (V) Phenazocine;
- 852 (W) Piminodine;
- 853 (X) Racemethorphan;
- 854 (Y) Racemorphan;
- 855 (Z) Remifentanyl; and
- 856 (AA) Sufentanyl.
- 857 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 858 compound, mixture, or preparation which contains any quantity of the following substances
- 859 having a stimulant effect on the central nervous system:
- 860 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 861 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- 862 (C) Phenmetrazine and its salts; and
- 863 (D) Methylphenidate.
- 864 (iv) Unless specifically excepted or unless listed in another schedule, any material,

865 compound, mixture, or preparation which contains any quantity of the following substances
866 having a depressant effect on the central nervous system, including its salts, isomers, and salts
867 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
868 specific chemical designation:

869 (A) Amobarbital;

870 (B) Glutethimide;

871 (C) Pentobarbital;

872 (D) Phencyclidine;

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

874 1-piperidinocyclohexanecarbonitrile (PCC); and

875 (F) Secobarbital.

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

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

880 (vi) Nabilone, another name for nabilone:

881 (\pm)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
882 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

883 (c) Schedule III:

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

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

895 (B) Benzphetamine;

- 896 (C) Chlorphentermine;
- 897 (D) Clortermine; and
- 898 (E) Phendimetrazine.
- 899 (ii) Unless specifically excepted or unless listed in another schedule, any material,
900 compound, mixture, or preparation which contains any quantity of the following substances
901 having a depressant effect on the central nervous system:
- 902 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
903 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients
904 which are not listed in any schedule;
- 905 (B) Any suppository dosage form containing amobarbital, secobarbital, or
906 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug
907 Administration for marketing only as a suppository;
- 908 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
909 salt of any of them;
- 910 (D) Chlorhexadol;
- 911 (E) Buprenorphine;
- 912 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,
913 isomers, and salts of isomers, for which an application is approved under the federal Food,
914 Drug, and Cosmetic Act, Section 505;
- 915 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:
916 \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- 917 (H) Lysergic acid;
- 918 (I) Lysergic acid amide;
- 919 (J) Methyprylon;
- 920 (K) Sulfondiethylmethane;
- 921 (L) Sulfonethylmethane;
- 922 (M) Sulfonmethane; and
- 923 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a
924 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:
925 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:
926 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,

927 flupyrzapon.

928 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
929 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
930 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
931 (-)-delta-9-(trans)-tetrahydrocannabinol.

932 (iv) Nalorphine.

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

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

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

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

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

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

951 (F) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than
952 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized
953 therapeutic amounts;

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

957 (H) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with

- 958 one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- 959 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids
- 960 including any of the following or any isomer, ester, salt, or derivative of the following that
- 961 promotes muscle growth:
- 962 (A) Boldenone;
 - 963 (B) Chlorotestosterone (4-chlortestosterone);
 - 964 (C) Clostebol;
 - 965 (D) Dehydrochlormethyltestosterone;
 - 966 (E) Dihydrotestosterone (4-dihydrotestosterone);
 - 967 (F) Drostanolone;
 - 968 (G) Ethylestrenol;
 - 969 (H) Fluoxymesterone;
 - 970 (I) Formebolone (formebolone);
 - 971 (J) Mesterolone;
 - 972 (K) Methandienone;
 - 973 (L) Methandranone;
 - 974 (M) Methandriol;
 - 975 (N) Methandrostenolone;
 - 976 (O) Methenolone;
 - 977 (P) Methyltestosterone;
 - 978 (Q) Mibolerone;
 - 979 (R) Nandrolone;
 - 980 (S) Norethandrolone;
 - 981 (T) Oxandrolone;
 - 982 (U) Oxymesterone;
 - 983 (V) Oxymetholone;
 - 984 (W) Stanolone;
 - 985 (X) Stanozolol;
 - 986 (Y) Testolactone;
 - 987 (Z) Testosterone; and
 - 988 (AA) Trenbolone.

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

992 (d) Schedule IV:

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

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

1000 (A) Alprazolam;

1001 (B) Barbital;

1002 (C) Bromazepam;

1003 (D) Butorphanol;

1004 (E) Camazepam;

1005 (F) Carisoprodol;

1006 (G) Chloral betaine;

1007 (H) Chloral hydrate;

1008 (I) Chlordiazepoxide;

1009 (J) Clobazam;

1010 (K) Clonazepam;

1011 (L) Clorazepate;

1012 (M) Clotiazepam;

1013 (N) Cloxazolam;

1014 (O) Delorazepam;

1015 (P) Diazepam;

1016 (Q) Dichloralphenazone;

1017 (R) Estazolam;

1018 (S) Ethchlorvynol;

1019 (T) Ethinamate;

- 1020 (U) Ethyl loflazepate;
- 1021 (V) Fludiazepam;
- 1022 (W) Flunitrazepam;
- 1023 (X) Flurazepam;
- 1024 (Y) Halazepam;
- 1025 (Z) Haloxazolam;
- 1026 (AA) Ketazolam;
- 1027 (BB) Loprazolam;
- 1028 (CC) Lorazepam;
- 1029 (DD) Lormetazepam;
- 1030 (EE) Mebutamate;
- 1031 (FF) Medazepam;
- 1032 (GG) Meprobamate;
- 1033 (HH) Methohexital;
- 1034 (II) Methylphenobarbital (mephobarbital);
- 1035 (JJ) Midazolam;
- 1036 (KK) Nimetazepam;
- 1037 (LL) Nitrazepam;
- 1038 (MM) Nordiazepam;
- 1039 (NN) Oxazepam;
- 1040 (OO) Oxazolam;
- 1041 (PP) Paraldehyde;
- 1042 (QQ) Pentazocine;
- 1043 (RR) Petrichloral;
- 1044 (SS) Phenobarbital;
- 1045 (TT) Pinazepam;
- 1046 (UU) Prazepam;
- 1047 (VV) Quazepam;
- 1048 (WW) Temazepam;
- 1049 (XX) Tetrazepam;
- 1050 (YY) Triazolam;

- 1051 (ZZ) Zaleplon; and
1052 (AAA) Zolpidem.
- 1053 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains
1054 any quantity of the following substances, including its salts, isomers whether optical, position,
1055 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
1056 isomers is possible.
- 1057 (iv) Unless specifically excepted or unless listed in another schedule, any material,
1058 compound, mixture, or preparation which contains any quantity of the following substances
1059 having a stimulant effect on the central nervous system, including its salts, isomers whether
1060 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
1061 isomers, and salts of isomers is possible within the specific chemical designation:
- 1062 (A) Cathine ((+)-norpseudoephedrine);
 - 1063 (B) Diethylpropion;
 - 1064 (C) Fencamfamine;
 - 1065 (D) Fenproporex;
 - 1066 (E) Mazindol;
 - 1067 (F) Mefenorex;
 - 1068 (G) Modafinil;
 - 1069 (H) Pemoline, including organometallic complexes and chelates thereof;
 - 1070 (I) Phentermine;
 - 1071 (J) Pipradrol;
 - 1072 (K) Sibutramine; and
 - 1073 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).
- 1074 (v) Unless specifically excepted or unless listed in another schedule, any material,
1075 compound, mixture, or preparation which contains any quantity of dextropropoxyphene
1076 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.
- 1077 (e) Schedule V: Any compound, mixture, or preparation containing any of the
1078 following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous
1079 base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in
1080 sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal
1081 qualities other than those possessed by the narcotic drug alone:

- 1082 (i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- 1083 (ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100
- 1084 grams;
- 1085 (iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100
- 1086 grams;
- 1087 (iv) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of
- 1088 atropine sulfate per dosage unit;
- 1089 (v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- 1090 (vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of
- 1091 atropine sulfate per dosage unit; and
- 1092 (vii) unless specifically exempted or excluded or unless listed in another schedule, any
- 1093 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant
- 1094 effect on the central nervous system, including its salts, isomers, and salts of isomers.

1095 Section 6. Section **58-37-4.2** is enacted to read:

1096 **58-37-4.2. Listed controlled substances.**

1097 The substance kratom (mitragyna), its analogs, homologs, and synthetic equivalents are

1098 listed controlled substances.

1099 Section 7. Section **58-37-6** is amended to read:

1100 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**

1101 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**

1102 **required -- Prescriptions.**

1103 (1) (a) The division may adopt rules relating to the licensing and control of the

1104 manufacture, distribution, production, prescription, administration, dispensing, conducting of

1105 research with, and performing of laboratory analysis upon controlled substances within this

1106 state.

1107 (b) The division may assess reasonable fees to defray the cost of issuing original and

1108 renewal licenses under this chapter pursuant to Section 63J-1-504.

1109 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,

1110 administers, conducts research with, or performs laboratory analysis upon any controlled

1111 substance in Schedules II through V within this state, or who proposes to engage in

1112 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting

1113 research with, or performing laboratory analysis upon controlled substances included in
1114 Schedules II through V within this state shall obtain a license issued by the division.

1115 (ii) The division shall issue each license under this chapter in accordance with a
1116 two-year renewal cycle established by rule. The division may by rule extend or shorten a
1117 renewal period by as much as one year to stagger the renewal cycles it administers.

1118 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,
1119 administer, conduct research with, or perform laboratory analysis upon controlled substances in
1120 Schedules II through V within this state may possess, manufacture, produce, distribute,
1121 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon
1122 those substances to the extent authorized by their license and in conformity with this chapter.

1123 (c) The following persons are not required to obtain a license and may lawfully possess
1124 controlled substances under this section:

1125 (i) an agent or employee, except a sales representative, of any registered manufacturer,
1126 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
1127 usual course of the person's business or employment; however, nothing in this subsection shall
1128 be interpreted to permit an agent, employee, sales representative, or detail man to maintain an
1129 inventory of controlled substances separate from the location of the person's employer's
1130 registered and licensed place of business;

1131 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
1132 warehouseman, who possesses any controlled substance in the usual course of the person's
1133 business or employment; and

1134 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to
1135 a lawful order of a practitioner.

1136 (d) The division may enact rules waiving the license requirement for certain
1137 manufacturers, producers, distributors, prescribers, dispensers, administrators, research
1138 practitioners, or laboratories performing analysis if consistent with the public health and safety.

1139 (e) A separate license is required at each principal place of business or professional
1140 practice where the applicant manufactures, produces, distributes, dispenses, conducts research
1141 with, or performs laboratory analysis upon controlled substances.

1142 (f) The division may enact rules providing for the inspection of a licensee or applicant's
1143 establishment, and may inspect the establishment according to those rules.

1144 (3) (a) Upon proper application, the division shall license a qualified applicant to
1145 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon
1146 controlled substances included in Schedules I through V, unless it determines that issuance of a
1147 license is inconsistent with the public interest. The division shall not issue a license to any
1148 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining
1149 public interest, the division shall consider whether or not the applicant has:

1150 (i) maintained effective controls against diversion of controlled substances and any
1151 Schedule I or II substance compounded from any controlled substance into other than
1152 legitimate medical, scientific, or industrial channels;

1153 (ii) complied with applicable state and local law;

1154 (iii) been convicted under federal or state laws relating to the manufacture, distribution,
1155 or dispensing of substances;

1156 (iv) past experience in the manufacture of controlled dangerous substances;

1157 (v) established effective controls against diversion; and

1158 (vi) complied with any other factors that the division establishes that promote the
1159 public health and safety.

1160 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,
1161 produce, distribute, conduct research with, or perform laboratory analysis upon controlled
1162 substances in Schedule I other than those specified in the license.

1163 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with
1164 substances in Schedules II through V if they are authorized to administer, dispense, or conduct
1165 research under the laws of this state.

1166 (ii) The division need not require a separate license for practitioners engaging in
1167 research with nonnarcotic controlled substances in Schedules II through V where the licensee is
1168 already licensed under this chapter in another capacity.

1169 (iii) With respect to research involving narcotic substances in Schedules II through V,
1170 or where the division by rule requires a separate license for research of nonnarcotic substances
1171 in Schedules II through V, a practitioner shall apply to the division prior to conducting
1172 research.

1173 (iv) Licensing for purposes of bona fide research with controlled substances by a
1174 practitioner considered qualified may be denied only on a ground specified in Subsection (4),

1175 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard
1176 adequately the practitioner's supply of substances against diversion from medical or scientific
1177 use.

1178 (v) Practitioners registered under federal law to conduct research in Schedule I
1179 substances may conduct research in Schedule I substances within this state upon furnishing the
1180 division evidence of federal registration.

1181 (d) Compliance by manufacturers, producers, and distributors with the provisions of
1182 federal law respecting registration, excluding fees, entitles them to be licensed under this
1183 chapter.

1184 (e) The division shall initially license those persons who own or operate an
1185 establishment engaged in the manufacture, production, distribution, dispensation, or
1186 administration of controlled substances prior to April 3, 1980, and who are licensed by the
1187 state.

1188 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed
1189 on probation, or revoked by the division upon finding that the applicant or licensee has:

1190 (i) materially falsified any application filed or required pursuant to this chapter;

1191 (ii) been convicted of an offense under this chapter or any law of the United States, or
1192 any state, relating to any substance defined as a controlled substance;

1193 (iii) been convicted of a felony under any other law of the United States or any state
1194 within five years of the date of the issuance of the license;

1195 (iv) had a federal license denied, suspended, or revoked by competent federal authority
1196 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of
1197 controlled substances;

1198 (v) had the licensee's license suspended or revoked by competent authority of another
1199 state for violation of laws or regulations comparable to those of this state relating to the
1200 manufacture, distribution, or dispensing of controlled substances;

1201 (vi) violated any division rule that reflects adversely on the licensee's reliability and
1202 integrity with respect to controlled substances;

1203 (vii) refused inspection of records required to be maintained under this chapter by a
1204 person authorized to inspect them; or

1205 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the

1206 purpose of manipulating human hormonal structure so as to:

1207 (A) increase muscle mass, strength, or weight without medical necessity and without a
1208 written prescription by any practitioner in the course of the practitioner's professional practice;
1209 or

1210 (B) improve performance in any form of human exercise, sport, or game.

1211 (b) The division may limit revocation or suspension of a license to a particular
1212 controlled substance with respect to which grounds for revocation or suspension exist.

1213 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to
1214 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of
1215 Occupational and Professional Licensing Act, and conducted in conjunction with the
1216 appropriate representative committee designated by the director of the department.

1217 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and
1218 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,
1219 except where the division is designated by law to perform those functions, or, when not
1220 designated by law, is designated by the executive director of the Department of Commerce to
1221 conduct the proceedings.

1222 (d) (i) The division may suspend any license simultaneously with the institution of
1223 proceedings under this section if it finds there is an imminent danger to the public health or
1224 safety.

1225 (ii) Suspension shall continue in effect until the conclusion of proceedings, including
1226 judicial review, unless withdrawn by the division or dissolved by a court of competent
1227 jurisdiction.

1228 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled
1229 substances owned or possessed by the licensee may be placed under seal in the discretion of the
1230 division.

1231 (ii) Disposition may not be made of substances under seal until the time for taking an
1232 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,
1233 orders the sale of perishable substances and the proceeds deposited with the court.

1234 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

1235 (f) The division shall notify promptly the Drug Enforcement Administration of all
1236 orders suspending or revoking a license and all forfeitures of controlled substances.

1237 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and
1238 inventories in conformance with the record keeping and inventory requirements of federal and
1239 state law and any additional rules issued by the division.

1240 (b) (i) Every physician, dentist, naturopathic physician, veterinarian, practitioner, or
1241 other person who is authorized to administer or professionally use a controlled substance shall
1242 keep a record of the drugs received by him and a record of all drugs administered, dispensed, or
1243 professionally used by him otherwise than by a prescription.

1244 (ii) A person using small quantities or solutions or other preparations of those drugs for
1245 local application has complied with this Subsection (5)(b) if the person keeps a record of the
1246 quantity, character, and potency of those solutions or preparations purchased or prepared by
1247 him, and of the dates when purchased or prepared.

1248 (6) Controlled substances in Schedules I through V may be distributed only by a
1249 licensee and pursuant to an order form prepared in compliance with division rules or a lawful
1250 order under the rules and regulations of the United States.

1251 (7) (a) A person may not write or authorize a prescription for a controlled substance
1252 unless the person is:

1253 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state
1254 or under the laws of another state having similar standards; and

1255 (ii) licensed under this chapter or under the laws of another state having similar
1256 standards.

1257 (b) A person other than a pharmacist licensed under the laws of this state, or the
1258 pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not
1259 dispense a controlled substance.

1260 (c) (i) A controlled substance may not be dispensed without the written prescription of
1261 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

1262 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in
1263 conformity with Subsection (7)(d).

1264 (iii) In emergency situations, as defined by division rule, controlled substances may be
1265 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms
1266 designated by the division and filed by the pharmacy.

1267 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with

1268 Subsection (7)(d).

1269 (d) Except for emergency situations designated by the division, a person may not issue,
1270 fill, compound, or dispense a prescription for a controlled substance unless the prescription is
1271 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of
1272 the prescriber as authorized by division rule, and contains the following information:

1273 (i) the name, address, and registry number of the prescriber;

1274 (ii) the name, address, and age of the person to whom or for whom the prescription is
1275 issued;

1276 (iii) the date of issuance of the prescription; and

1277 (iv) the name, quantity, and specific directions for use by the ultimate user of the
1278 controlled substance.

1279 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I
1280 controlled substance.

1281 (f) Except when administered directly to an ultimate user by a licensed practitioner,
1282 controlled substances are subject to the following restrictions:

1283 (i) (A) A prescription for a Schedule II substance may not be refilled.

1284 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a
1285 one-month's supply, as directed on the daily dosage rate of the prescriptions.

1286 (ii) A Schedule III or IV controlled substance may be filled only within six months of
1287 issuance, and may not be refilled more than six months after the date of its original issuance or
1288 be refilled more than five times after the date of the prescription unless renewed by the
1289 practitioner.

1290 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's
1291 prescription directs, but they may not be refilled one year after the date the prescription was
1292 issued unless renewed by the practitioner.

1293 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not
1294 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days
1295 after the date the prescription was issued, or 30 days after the dispensing date, if that date is
1296 specified separately from the date of issue.

1297 (v) A practitioner may issue more than one prescription at the same time for the same
1298 Schedule II controlled substance, but only under the following conditions:

1299 (A) no more than three prescriptions for the same Schedule II controlled substance may
1300 be issued at the same time;

1301 (B) no one prescription may exceed a 30-day supply;

1302 (C) a second or third prescription shall include the date of issuance and the date for
1303 dispensing; and

1304 (D) unless the practitioner determines there is a valid medical reason to the contrary,
1305 the date for dispensing a second or third prescription may not be fewer than 30 days from the
1306 dispensing date of the previous prescription.

1307 (vi) Each prescription for a controlled substance may contain only one controlled
1308 substance per prescription form and may not contain any other legend drug or prescription
1309 item.

1310 (g) An order for a controlled substance in Schedules II through V for use by an
1311 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
1312 Subsection (7) if the order is:

1313 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
1314 with the federal Drug Enforcement Administration, and an active Utah controlled substance
1315 license in good standing issued by the division under this section, or a medical resident who is
1316 exempted from licensure under Subsection 58-1-307(1)(c);

1317 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
1318 practitioner designates the quantity ordered;

1319 (iii) entered upon the record of the patient, the record is signed by the prescriber
1320 affirming the prescriber's authorization of the order within 48 hours after filling or
1321 administering the order, and the patient's record reflects the quantity actually administered; and

1322 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within
1323 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by
1324 the hospital and the amount taken from the supply is administered directly to the patient
1325 authorized to receive it.

1326 (h) A practitioner licensed under this chapter may not prescribe, administer, or
1327 dispense a controlled substance to a child, without first obtaining the consent required in
1328 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except
1329 in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same

1330 meaning as defined in Section 78A-6-105, and "emergency" means any physical condition
1331 requiring the administration of a controlled substance for immediate relief of pain or suffering.

1332 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
1333 of a controlled substance in excess of medically recognized quantities necessary to treat the
1334 ailment, malady, or condition of the ultimate user.

1335 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
1336 any controlled substance to another person knowing that the other person is using a false name,
1337 address, or other personal information for the purpose of securing the controlled substance.

1338 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense
1339 a controlled substance may not manufacture, distribute, or dispense a controlled substance to
1340 another licensee or any other authorized person not authorized by this license.

1341 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a
1342 symbol required by this chapter or by a rule issued under this chapter.

1343 (m) A person licensed under this chapter may not refuse or fail to make, keep, or
1344 furnish any record notification, order form, statement, invoice, or information required under
1345 this chapter.

1346 (n) A person licensed under this chapter may not refuse entry into any premises for
1347 inspection as authorized by this chapter.

1348 (o) A person licensed under this chapter may not furnish false or fraudulent material
1349 information in any application, report, or other document required to be kept by this chapter or
1350 willfully make any false statement in any prescription, order, report, or record required by this
1351 chapter.

1352 (8) (a) (i) Any person licensed under this chapter who is found by the division to have
1353 violated any of the provisions of Subsections (7)(k) through (7)(o) or Subsection (10) is subject
1354 to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication
1355 of any violations in accordance with Sections 58-1-106 and 58-1-108.

1356 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the
1357 General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

1358 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through
1359 (7)(j) or Subsection (10) is:

1360 (i) upon first conviction, guilty of a class B misdemeanor;

- 1361 (ii) upon second conviction, guilty of a class A misdemeanor; and
1362 (iii) on third or subsequent conviction, guilty of a third degree felony.
- 1363 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
1364 (7)(o) shall upon conviction be guilty of a third degree felony.
- 1365 (9) Any information communicated to any licensed practitioner in an attempt to
1366 unlawfully procure, or to procure the administration of, a controlled substance is not considered
1367 to be a privileged communication.
- 1368 (10) A person holding a valid license under this chapter who is engaged in medical
1369 research may produce, possess, or administer, but may not prescribe or dispense, a controlled
1370 substance listed in Section 58-37-4.2.
- 1371 Section 8. Section **58-37-8** is amended to read:
- 1372 **58-37-8. Prohibited acts -- Penalties.**
- 1373 (1) Prohibited acts A -- Penalties:
- 1374 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and
1375 intentionally:
- 1376 (i) produce, manufacture, or dispense, or to possess with intent to produce,
1377 manufacture, or dispense, a controlled or counterfeit substance;
- 1378 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
1379 arrange to distribute a controlled or counterfeit substance;
- 1380 (iii) possess a controlled or counterfeit substance with intent to distribute; or
1381 (iv) engage in a continuing criminal enterprise where:
- 1382 (A) the person participates, directs, or engages in conduct which results in any
1383 violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and
1384 (B) the violation is a part of a continuing series of two or more violations of Title 58,
1385 Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with
1386 five or more persons with respect to whom the person occupies a position of organizer,
1387 supervisor, or any other position of management.
- 1388 (b) Any person convicted of violating Subsection (1)(a) with respect to:
- 1389 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
1390 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
1391 degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

1392 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, [or]
1393 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
1394 upon a second or subsequent conviction is guilty of a second degree felony; or

1395 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
1396 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1397 felony.

1398 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
1399 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
1400 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his
1401 person or in his immediate possession during the commission or in furtherance of the offense,
1402 the court shall additionally sentence the person convicted for a term of one year to run
1403 consecutively and not concurrently; and the court may additionally sentence the person
1404 convicted for an indeterminate term not to exceed five years to run consecutively and not
1405 concurrently.

1406 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1407 felony punishable by imprisonment for an indeterminate term of not less than seven years and
1408 which may be for life. Imposition or execution of the sentence may not be suspended, and the
1409 person is not eligible for probation.

1410 (2) Prohibited acts B -- Penalties:

1411 (a) It is unlawful:

1412 (i) for any person knowingly and intentionally to possess or use a controlled substance
1413 analog or a controlled substance, unless it was obtained under a valid prescription or order,
1414 directly from a practitioner while acting in the course of the person's professional practice, or as
1415 otherwise authorized by this chapter;

1416 (ii) for any owner, tenant, licensee, or person in control of any building, room,
1417 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
1418 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
1419 any of those locations; or

1420 (iii) for any person knowingly and intentionally to possess an altered or forged
1421 prescription or written order for a controlled substance.

1422 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

1423 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1424 (ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16
1425 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree
1426 felony; or

1427 (iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of
1428 the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A
1429 misdemeanor.

1430 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
1431 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
1432 penalty than provided in this Subsection (2).

1433 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
1434 substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in
1435 Section 58-37-4.2, or less than one ounce of marijuana, is guilty of a class B misdemeanor.
1436 Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or
1437 subsequent conviction the person is guilty of a third degree felony.

1438 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior
1439 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or
1440 any public jail or other place of confinement shall be sentenced to a penalty one degree greater
1441 than provided in Subsection (2)(b), and if the conviction is with respect to controlled
1442 substances as listed in:

1443 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
1444 indeterminate term as provided by law, and:

1445 (A) the court shall additionally sentence the person convicted to a term of one year to
1446 run consecutively and not concurrently; and

1447 (B) the court may additionally sentence the person convicted for an indeterminate term
1448 not to exceed five years to run consecutively and not concurrently; and

1449 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
1450 indeterminate term as provided by law, and the court shall additionally sentence the person
1451 convicted to a term of six months to run consecutively and not concurrently.

1452 (f) Any person convicted of violating Subsection (2)(a)(ii) or [~~(2)(a)~~](iii) is:

1453 (i) on a first conviction, guilty of a class B misdemeanor;

1454 (ii) on a second conviction, guilty of a class A misdemeanor; and
1455 (iii) on a third or subsequent conviction, guilty of a third degree felony.
1456 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1457 amounting to a violation of Section 76-5-207:
1458 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1459 body any measurable amount of a controlled substance; and
1460 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
1461 causing serious bodily injury as defined in Section 76-1-601 or the death of another.
1462 (h) A person who violates Subsection (2)(g) by having in the person's body:
1463 (i) a controlled substance classified under Schedule I, other than those described in
1464 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1465 degree felony;
1466 (ii) marijuana, tetrahydrocannabinols, [~~or~~] equivalents described in Subsection
1467 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
1468 degree felony; or
1469 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
1470 A misdemeanor.
1471 (i) A person is guilty of a separate offense for each victim suffering serious bodily
1472 injury or death as a result of the person's negligent driving in violation of Subsection
1473 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.
1474 (3) Prohibited acts C -- Penalties:
1475 (a) It is unlawful for any person knowingly and intentionally:
1476 (i) to use in the course of the manufacture or distribution of a controlled substance a
1477 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1478 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1479 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1480 person;
1481 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1482 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
1483 be attempting to acquire or obtain possession of, or to procure the administration of any
1484 controlled substance by misrepresentation or failure by the person to disclose receiving any

1485 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1486 prescription or written order for a controlled substance, or the use of a false name or address;
1487 (iii) to make any false or forged prescription or written order for a controlled substance,
1488 or to utter the same, or to alter any prescription or written order issued or written under the
1489 terms of this chapter; or
1490 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
1491 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1492 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1493 so as to render any drug a counterfeit controlled substance.

1494 (b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree
1495 felony.

1496 (4) Prohibited acts D -- Penalties:

1497 (a) Notwithstanding other provisions of this section, a person not authorized under this
1498 chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a,
1499 Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances
1500 Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if
1501 the trier of fact finds the act is committed:

1502 (i) in a public or private elementary or secondary school or on the grounds of any of
1503 those schools;

1504 (ii) in a public or private vocational school or postsecondary institution or on the
1505 grounds of any of those schools or institutions;

1506 (iii) in those portions of any building, park, stadium, or other structure or grounds
1507 which are, at the time of the act, being used for an activity sponsored by or through a school or
1508 institution under Subsections (4)(a)(i) and (ii);

1509 (iv) in or on the grounds of a preschool or child-care facility;

1510 (v) in a public park, amusement park, arcade, or recreation center;

1511 (vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

1512 (vii) in a shopping mall, sports facility, stadium, arena, theater, movie house,
1513 playhouse, or parking lot or structure adjacent thereto;

1514 (viii) in or on the grounds of a library;

1515 (ix) within any area that is within 1,000 feet of any structure, facility, or grounds

1516 included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

1517 (x) in the presence of a person younger than 18 years of age, regardless of where the act
1518 occurs; or

1519 (xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1520 distribution of a substance in violation of this section to an inmate or on the grounds of any
1521 correctional facility as defined in Section 76-8-311.3.

1522 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1523 and shall be imprisoned for a term of not less than five years if the penalty that would
1524 otherwise have been established but for this Subsection (4) would have been a first degree
1525 felony.

1526 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1527 not eligible for probation.

1528 (c) If the classification that would otherwise have been established would have been
1529 less than a first degree felony but for this Subsection (4), a person convicted under this
1530 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1531 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1532 (d) (i) If the violation is of Subsection (4)(a)(xi):

1533 (A) the person may be sentenced to imprisonment for an indeterminate term as
1534 provided by law, and the court shall additionally sentence the person convicted for a term of
1535 one year to run consecutively and not concurrently; and

1536 (B) the court may additionally sentence the person convicted for an indeterminate term
1537 not to exceed five years to run consecutively and not concurrently; and

1538 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with
1539 the mental state required for the commission of an offense, directly or indirectly solicits,
1540 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1541 violation of Subsection (4)(a)(xi).

1542 (e) It is not a defense to a prosecution under this Subsection (4) that the actor
1543 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
1544 was unaware of the individual's true age; nor that the actor mistakenly believed that the
1545 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
1546 the location where the act occurred was as described in Subsection (4)(a).

1547 (5) Any violation of this chapter for which no penalty is specified is a class B
1548 misdemeanor.

1549 (6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of
1550 guilty or no contest to a violation of this section which is held in abeyance under Title 77,
1551 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been
1552 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

1553 (7) A person may be charged and sentenced for a violation of this section,
1554 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1555 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in
1556 lieu of, any civil or administrative penalty or sanction authorized by law.

1557 (b) Where violation of this chapter violates a federal law or the law of another state,
1558 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1559 prosecution in this state.

1560 (9) In any prosecution for a violation of this chapter, evidence or proof which shows a
1561 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1562 substance or substances, is prima facie evidence that the person or persons did so with
1563 knowledge of the character of the substance or substances.

1564 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1565 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1566 administering controlled substances or from causing the substances to be administered by an
1567 assistant or orderly under the veterinarian's direction and supervision.

1568 (11) Civil or criminal liability may not be imposed under this section on:

1569 (a) any person registered under this chapter who manufactures, distributes, or possesses
1570 an imitation controlled substance for use as a placebo or investigational new drug by a
1571 registered practitioner in the ordinary course of professional practice or research; or

1572 (b) any law enforcement officer acting in the course and legitimate scope of the
1573 officer's employment.

1574 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1575 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide
1576 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1577 as defined in Subsection 58-37-2(1)(w).

1578 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1579 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,
1580 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in
1581 connection with the practice of a traditional Indian religion.

1582 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1583 defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to
1584 trial.

1585 (ii) The notice shall include the specific claims of the affirmative defense.

1586 (iii) The court may waive the notice requirement in the interest of justice for good
1587 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1588 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1589 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1590 charges.

1591 (13) (a) It is an affirmative defense that the person produced, possessed, or
1592 administered a controlled substance listed in Section 58-37-4.2 if the person:

1593 (i) was engaged in medical research; and

1594 (ii) was a holder of a valid license to possess controlled substances under Section
1595 58-37-6.

1596 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1597 a controlled substance listed in 58-37-4.2.

1598 (14) It is an affirmative defense that the person possessed, in the person's body, a
1599 controlled substance listed in Section 58-37-4.2 if:

1600 (a) the person was the subject of medical research conducted by a holder of a valid
1601 license to possess controlled substances under Section 58-37-6; and

1602 (b) the substance was administered to the person by the medical researcher.

1603 ~~(13)~~ (15) If any provision of this chapter, or the application of any provision to any
1604 person or circumstances, is held invalid, the remainder of this chapter shall be given effect
1605 without the invalid provision or application.

1606 (16) A legislative body of a political subdivision may not enact an ordinance that is
1607 less restrictive than any provision of this chapter.

1608 Section 9. **Effective date.**

1609 If approved by two-thirds of all the members elected to each house, this bill takes effect
1610 upon approval by the governor, or the day following the constitutional time limit of Utah
1611 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
1612 the date of veto override, except that the amendments to Section 58-37-2 (Effective 07/01/11)
1613 take effect on July 1, 2011.

Legislative Review Note
as of 1-21-11 2:15 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 242

SHORT TITLE: **Controlled Substances Amendments**

SPONSOR: **Herrod, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.