

Effective 5/6/2026

Chapter 18 Drug Offenses

Part 1 General Provisions

76-18-101 Definitions.

Reserved.

Enacted by Chapter 362, 2026 General Session

76-18-102 Applicable provisions to chapter from other titles.

Sections 58-37-309 and 58-37-402 are applicable to this chapter.

Enacted by Chapter 362, 2026 General Session

Part 2 Offenses Concerning Controlled Substances

76-18-201 Definitions.

(1) As used in this part:

- (a) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, other legal entity, or any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct that constitutes the commission of episodes of activity made unlawful by this part, Part 3, Offenses Concerning Drug Paraphernalia, Part 4, Offenses Concerning Imitation Controlled Substances, Part 5, Clandestine Drug Labs, or Title 58, Chapter 37, Controlled Substances, or Title 58, Chapter 37c, Controlled Substance Precursors, which episodes:
 - (i) are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics; and
 - (ii) taken together, demonstrate continuing unlawful conduct and are related either to each other or to the enterprise.
- (b) "Indian" means a member of an Indian tribe.
- (c) "Indian religion" means a religion:
 - (i) the origin and interpretation of which is from within a traditional Indian culture or community; and
 - (ii) that is practiced by Indians.
- (d) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, that is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of the Indians' status as Indians.

(2) Terms defined in Sections 58-37-101, 76-1-101.5, and 76-18-101 apply to this part.

Enacted by Chapter 362, 2026 General Session

76-18-202 Applicable provisions to part from other titles.

The following sections from Title 58, Chapter 37, Controlled Substances, apply to this part:

- (1) Section 58-37-101, Definitions;
- (2) Section 58-37-102, Applicability of chapter -- Uniform construction;
- (3) Section 58-37-104, Severability;
- (4) Section 58-37-105, Division responsibilities -- Licensing -- Records required;
- (5) Section 58-37-107, Controlled substances;
- (6) Section 58-37-108, Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules;
- (7) Section 58-37-109, Listed controlled substances;
- (8) Section 58-37-110, Recognized controlled substance analogs;
- (9) Section 58-37-111, Exceptions to applicability for certain herbs and food supplements;
- (10) Section 58-37-114, Burden of proof in proceedings on violations;
- (11) Section 58-37-115, Restrictions on liability for law enforcement;
- (12) Section 58-37-202, Applicability of Title 76 to prosecutions;
- (13) Section 58-37-203, Enforcement -- Coordination and cooperation of federal and state agencies -- Powers;
- (14) Section 58-37-204, Investigators -- Status of peace officers;
- (15) Section 58-37-206, Court to enjoin a violation -- Jury trial;
- (16) Section 58-37-208, Prima facie evidence;
- (17) Section 58-37-210, Penalties -- Bar to state prosecution;
- (18) Section 58-37-308, Veterinary exemption for gabapentin;
- (19) Section 58-37-403, Exemption for possession or distribution of a cannabinoid product, expanded cannabinoid product, or transportable industrial hemp concentrate;
- (20) Section 58-37-404, Medical cannabis decriminalization; and
- (21) Section 58-37-405, Enforcement.

Enacted by Chapter 362, 2026 General Session

76-18-203 Exemptions and affirmative defenses applicable to certain drug crimes.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2)
 - (a) Civil or criminal liability may not be imposed under an offense listed in Subsection (2)(b) on any Indian who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.
 - (b) The offenses referred to in Subsection (2)(a) are:
 - (i) unlawfully possessing or using a controlled substance or a controlled substance analog under Section 76-18-207;
 - (ii) unlawfully producing, manufacturing, or dispensing a controlled substance or counterfeit substance under Section 76-18-208;
 - (iii) unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance under Section 76-18-209;
 - (iv) unlawfully possessing a controlled substance or counterfeit substance with intent to distribute under Section 76-18-210;
 - (v) unlawfully engaging in a continuing criminal enterprise involving drugs under Section 76-18-211;

- (vi) unlawfully allowing possession, use, or distribution of a controlled substance on the premises under Section 76-18-212;
 - (vii) unlawful possession of an altered or forged prescription or order for a controlled substance under Section 76-18-213;
 - (viii) unlawful use of a license number in the course of manufacturing or distributing a controlled substance under Section 76-18-214;
 - (ix) unlawful misrepresentation as an authorized person to obtain a controlled substance under Section 76-18-215;
 - (x) unlawful conduct to obtain a controlled substance under Section 76-18-216;
 - (xi) unlawfully prescribing or dispensing a controlled substance to a person known to be using unlawful means under Section 76-18-217;
 - (xii) unlawfully making, forging, altering, or uttering a prescription or a written order under Section 76-18-218; and
 - (xiii) unlawful materials to create a counterfeit controlled substance under Section 76-18-219.
- (c)
- (i) In a prosecution alleging a violation of an offense listed in Subsection (2)(b) regarding peyote as defined in Section 58-37-108, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.
 - (ii)
 - (A) A defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (2) as soon as practicable, but not later than 10 days before trial.
 - (B) The notice shall include the specific claims of the affirmative defense.
 - (C) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.
 - (iii)
 - (A) A defendant shall establish the affirmative defense under this Subsection (2) by a preponderance of the evidence.
 - (B) If the defense is established, it is a complete defense to the charges.
- (3) An offense listed in Subsection (2)(b) does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances, or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.
- (4) Civil or criminal liability may not be imposed under an offense listed in Subsection (2)(b) against:
- (a) a person registered under this chapter or Title 58, Chapter 37, Controlled Substances, who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or an investigational new drug by a registered practitioner in the ordinary course of professional practice or research;
 - (b) a law enforcement officer acting in the course and legitimate scope of the law enforcement officer's employment; or
 - (c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled substance or counterfeit substance to conduct a test or analysis on the controlled substance or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.
- (5)

- (a) It is an affirmative defense that a person produced, possessed, or administered a controlled substance listed in Section 58-37-109 if the person was:
 - (i) engaged in medical research; and
 - (ii) a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113.
- (b) It is not a defense under Subsection (5)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-109.
- (6) It is an affirmative defense that a person possessed, in the person's body, a controlled substance listed in Section 58-37-109 if:
 - (a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; and
 - (b) the substance was administered to the person by the medical researcher.

Enacted by Chapter 362, 2026 General Session

76-18-204 Enhanced penalties and sentencing for certain drug offenses.

- (1)
 - (a) As used in this section, "correctional facility" means the same as that term is defined in Section 76-8-311.3.
 - (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2)
 - (a) An actor not authorized under this part or Title 58, Chapter 37, Controlled Substances, who commits any act that is unlawful under Subsection (2)(b) is, upon conviction, subject to the penalties and classifications under Subsection (3) if the trier of fact finds that the act is committed:
 - (i) in a public or private elementary or secondary school or on the grounds of a public or private elementary or secondary school during the hours of 6 a.m. through 10 p.m.;
 - (ii) in a public or private vocational school or postsecondary institution or on the grounds of a public or private vocational school or postsecondary institution during the hours of 6 a.m. through 10 p.m.;
 - (iii) in or on the grounds of a preschool or child-care facility during the preschool's or child-care facility's hours of operation;
 - (iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;
 - (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
 - (vi) in or on the grounds of a library when the library is open to the public;
 - (vii) within an area that is within 100 feet of a structure, facility, or grounds included in Subsections (2)(a)(i) through (vi);
 - (viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or
 - (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of an offense listed in Subsection (2)(b) to an inmate or on the grounds of a correctional facility.
 - (b) The offenses described in Subsection (2)(a) are:
 - (i) unlawfully producing, manufacturing, or dispensing a controlled substance or counterfeit substance under Section 76-18-208;

- (ii) unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance under Section 76-18-209;
 - (iii) unlawfully possessing a controlled substance or counterfeit substance with intent to distribute under Section 76-18-210;
 - (iv) unlawfully engaging in a continuing criminal enterprise involving drugs under Section 76-18-211;
 - (v) unlawful manufacture of an imitation controlled substance under Section 76-18-404; and
 - (vi) unlawful distribution or possession with intent to distribute an imitation controlled substance under Section 76-18-405.
- (3)
- (a) Except as provided in Subsection (3)(b) or (c), an actor who is convicted of an enhancement under this section is guilty of one degree more than the maximum penalty prescribed for the offense described in Subsection (2)(b).
 - (b)
 - (i) The court shall sentence an actor who is convicted of a first degree felony under this section, who would have been convicted of a first degree felony under an offense listed in Subsection (2)(b) regardless of the application of this section, for a term of imprisonment of not less than five years.
 - (ii) Imposition or execution of the sentence described in Subsection (3)(b)(i) may not be suspended, and the actor is not eligible for probation.
 - (c) If the violation is of Subsection (2)(a)(ix):
 - (i)
 - (A) the actor may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the actor for a term of one year to run consecutively and not concurrently; and
 - (B) the court may additionally sentence the actor for an indeterminate term not to exceed five years to run consecutively and not concurrently; and
 - (ii) the penalties under Subsection (3)(c)(i) also apply to an actor who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (2)(a)(ix).
- (4) It is not a defense to a sentencing enhancement under Subsection (3) that:
- (a) if the enhancement is for a violation of Subsection (2)(a)(viii), the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or
 - (b) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (2)(a) or was unaware that the location where the act occurred was as described in Subsection (2)(a).

Enacted by Chapter 362, 2026 General Session

76-18-205 Unlawful alteration or removal of a controlled substance label.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful alteration or removal of a controlled substance label if:
 - (a) the actor:
 - (i) alters the face of a label on a container containing a controlled substance; or
 - (ii) removes a label on a container containing a controlled substance; and

- (b) any of the original contents of the container described in Subsection (2)(a) remain.
- (3) A violation of Subsection (2) is a class B misdemeanor.

Enacted by Chapter 362, 2026 General Session

76-18-206 Unlawful failure to use original controlled substance container.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful failure to use original controlled substance container if the actor:
 - (a)
 - (i) is an individual to whom, or for whose use, a controlled substance has been prescribed, sold, or dispensed by a practitioner; or
 - (ii) is the owner of an animal for which a controlled substance has been prescribed, sold, or dispensed by a veterinarian; and
 - (b) possesses the controlled substance in a manner other than in the container in which the controlled substance was delivered to the actor by the person selling or dispensing the controlled substance.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) It is a defense to a prosecution under this section if the actor produces in court a valid prescription for the controlled substance or the original container with the label attached.

Enacted by Chapter 362, 2026 General Session

76-18-207 Unlawfully possessing or using a controlled substance or controlled substance analog.

- (1)
 - (a) As used in this section:
 - (i) "Correctional facility" means the same as that term is defined in Section 64-13-1.
 - (ii) "Good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.
 - (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawfully possessing or using a controlled substance or a controlled substance analog if the actor knowingly and intentionally possesses or uses a controlled substance or a controlled substance analog, unless the controlled substance or controlled substance analog was obtained:
 - (a) under a valid prescription or order;
 - (b) directly from a practitioner while acting in the course of the practitioner's professional practice; or
 - (c) as otherwise authorized by this part or Title 58, Chapter 37, Controlled Substances.
- (3) Subject to Subsection (4), a violation of Subsection (2) is:
 - (a) a second degree felony if the substance is marijuana and the amount is 100 pounds or more;
 - (b) a third degree felony if:
 - (i)
 - (A) the substance is a substance classified in Schedule I or II or a controlled substance analog, not including marijuana; and

- (B) the actor's current violation results in the actor receiving at least a third conviction under this section and each of the actor's previous convictions were based on a violation committed within seven years before the date of the violation upon which the current conviction is based; or
 - (ii) the violation would otherwise qualify under Subsection (3)(d), but the actor's current violation results in the actor receiving at least a fourth conviction under this section and each of the actor's previous convictions were based on a violation committed within seven years before the date of the violation upon which the current conviction is based;
 - (c) a class A misdemeanor if:
 - (i)
 - (A) the substance is a substance classified in Schedule I or II or a controlled substance analog, not including marijuana; and
 - (B) the current violation is the actor's first or second conviction under this section or does not qualify as a third degree felony under Subsection (3)(b); or
 - (ii) the violation would otherwise qualify under Subsection (3)(d), but the actor's current violation results in the actor receiving at least a third conviction under this section and each of the actor's previous convictions were based on a violation committed within seven years before the date of the violation upon which the current conviction is based; or
 - (d) if Subsection (3)(a), (b), or (c) does not apply, a class B misdemeanor, including a substance listed in Section 58-37-109 or marijuana.
- (4)
- (a) Except as provided in Subsection (4)(c) and subject to Subsection (5), upon an actor's conviction of a violation of this section, if the actor has previously been convicted of a violation of Section 76-18-208, 76-18-209, 76-18-210, or 76-18-211, the court shall sentence the actor to a penalty that is one degree higher than the applicable penalty provided in Subsection (3).
 - (b)
 - (i) Except as provided in Subsection (4)(c) and subject to Subsection (5), the court shall sentence an actor convicted of violating this section to a penalty that is one degree higher than the applicable penalty provided in Subsection (3)(a), (3)(b)(i), or (3)(c)(i), if the violation of this section occurs while the actor is inside the exterior boundaries of property occupied by:
 - (A) a correctional facility;
 - (B) a public jail; or
 - (C) another place of confinement.
 - (ii) Except as provided in Subsection (4)(c) and subject to Subsection (5), if an actor is subject to an enhanced penalty under Subsection (4)(b)(i) and the violation of this section is based on a controlled substance listed in Subsection (3)(a) or (3)(b)(i), the actor may be sentenced to imprisonment for an indeterminate term as provided by law, and:
 - (A) the court shall additionally sentence the actor to a term of one year to run consecutively and not concurrently; and
 - (B) the court may additionally sentence the actor for an indeterminate term not to exceed five years to run consecutively and not concurrently.
 - (iii) Except as provided in Subsection (4)(c) and subject to Subsection (5), if an actor is subject to an enhanced penalty under Subsection (4)(b)(i) and the violation of this section is based on a controlled substance that would qualify for punishment under Subsection (3)(d), the actor may be sentenced to imprisonment for an indeterminate term as provided by law and the court shall additionally sentence the actor to a term of six months to run consecutively and not concurrently.

- (5) The application of any increase in penalty under this section may not result in any greater penalty than a second degree felony.
- (6)
- (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) A previous conviction used for a penalty enhancement under this section may only be a conviction that:
 - (i) is from a separate criminal episode than the current conviction under this section; and
 - (ii) has not already been used under a separate penalty enhancement provision to enhance the conviction under this section.
 - (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (7)
- (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (8) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (9) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
- (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9)(a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).
- (10)
- (a) It is an affirmative defense to a violation of Subsection (2) if the circumstances listed in Subsection (10)(b) apply and the actor or bystander:
 - (i) reasonably believes that the actor or another individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;
 - (ii) reports, or assists an individual who reports, in good faith, the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the actor is the subject of a report made under this section;
 - (iii) provides, in the report described in Subsection (10)(a)(ii), a functional description of the actual location of the overdose event that facilitates responding to the individual experiencing the overdose event;
 - (iv) remains at the location of the individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the

medical care facility where the individual experiencing an overdose event is located until a responding law enforcement officer arrives;

- (v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the individual experiencing the overdose event and any substances the individual may have injected, inhaled, or otherwise introduced into the individual's body; and
 - (vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.
- (b) The circumstances referred to in Subsection (10)(a) are:
- (i) the possession or use of less than 16 ounces of marijuana; or
 - (ii) the possession or use of a scheduled or listed controlled substance other than marijuana.

Enacted by Chapter 362, 2026 General Session

76-18-208 Unlawfully producing, manufacturing, or dispensing a controlled substance or counterfeit substance.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) Except as authorized by this part or Title 58, Chapter 37, Controlled Substances, and under circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or a fentanyl-related substance, an actor commits unlawfully producing, manufacturing, or dispensing a controlled substance or counterfeit substance if the actor knowingly and intentionally:
- (a) produces, manufactures, or dispenses a controlled substance or a counterfeit substance; or
 - (b) possesses, with the intent to produce, manufacture, or dispense, a controlled substance or a counterfeit substance.
- (3)
- (a) Except as provided in Subsection (3)(b) and subject to Subsections (4) and (5), a violation of Subsection (2) is:
 - (i) a second degree felony if the controlled substance or counterfeit substance is:
 - (A) a substance or a counterfeit of a substance classified in Schedule I or II, not including marijuana;
 - (B) a controlled substance analog; or
 - (C) gammahydroxybutyric acid as listed in Schedule III;
 - (ii) a third degree felony if the controlled substance or counterfeit substance is:
 - (A) a substance or a counterfeit of a substance classified in Schedule III or IV;
 - (B) marijuana; or
 - (C) a substance listed in Section 58-37-109; or
 - (iii) a class A misdemeanor if the controlled substance or counterfeit substance is a substance or counterfeit substance of a substance classified in Schedule V.
 - (b) Subject to Subsections (4) and (5), a second or subsequent conviction under:
 - (i) Subsection (3)(a)(i) is a first degree felony;
 - (ii) Subsection (3)(a)(ii) is a second degree felony; or
 - (iii) Subsection (3)(a)(iii) is a third degree felony.
- (4)
- (a) A court shall impose a mandatory jail sentence of 360 days in jail, and may not suspend any portion of the jail sentence or grant early release, if:

- (i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of an offense under this section;
 - (ii)
 - (A) the violation is the actor's second or subsequent conviction for any level of offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; or
 - (B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; and
 - (iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
- (b)
- (i) Except as provided in Subsection (4)(b)(ii), an actor who is subject to a mandatory jail sentence under Subsection (4)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (4)(a).
 - (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (4)(a).
- (5) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.
- (6)
- (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (7)
- (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (8) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (9) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
- (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

76-18-209 Unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance.

- (1)
 - (a) As used in this section:
 - (i) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
 - (ii) "Firearm" means the same as that term is defined in Section 76-11-101.
 - (iii) "Readily accessible for immediate use" means the same as that term is defined in Section 76-11-201.
 - (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) Except as authorized by this chapter or Title 58, Chapter 37, Controlled Substances, and under circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or a fentanyl-related substance, an actor commits unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance if the actor knowingly and intentionally:
 - (a) distributes a controlled substance or a counterfeit substance; or
 - (b) agrees, consents, offers, or arranges to distribute a controlled substance or a counterfeit substance.
- (3)
 - (a) Except as provided in Subsection (3)(b) and subject to Subsections (4), (5), and (6), a violation of Subsection (2) is:
 - (i) a second degree felony if the controlled substance or counterfeit substance is:
 - (A) a substance or a counterfeit of a substance classified in Schedule I or II, not including marijuana;
 - (B) a controlled substance analog; or
 - (C) gammahydroxybutyric acid as listed in Schedule III;
 - (ii) a third degree felony if the controlled substance or counterfeit substance is:
 - (A) a substance or a counterfeit of a substance classified in Schedule III or IV;
 - (B) marijuana; or
 - (C) a substance listed in Section 58-37-109; or
 - (iii) a class A misdemeanor if the controlled substance or counterfeit substance is a substance or counterfeit substance of a substance classified in Schedule V.
 - (b) Subject to Subsections (4), (5), and (6), a second or subsequent conviction under:
 - (i) Subsection (3)(a)(i) is a first degree felony;
 - (ii) Subsection (3)(a)(ii) is a second degree felony; or
 - (iii) Subsection (3)(a)(iii) is a third degree felony.
- (4)
 - (a) Except as provided under Subsection (4)(b) and subject to Subsection (6), the court shall impose an indeterminate prison term for an actor who has been convicted of a violation of this section that is a first degree felony or a second degree felony under Subsection (3)(a) or (3)(b) if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation of Subsection (2), the actor intentionally or knowingly:
 - (i) used, drew, or exhibited a dangerous weapon that is not a firearm, in an angry, threatening, intimidating, or coercive manner;
 - (ii) used a firearm or had a firearm readily accessible for immediate use; or
 - (iii) distributed a firearm or possessed a firearm with intent to distribute the firearm.

- (b) Subject to Subsections (5) and (6), a court may suspend the indeterminate prison term for an actor convicted under Subsection (4)(a) if the court:
 - (i) details on the record the reasons why it is in the interests of justice to not impose the indeterminate prison term;
 - (ii) makes a finding on the record that the actor does not pose a significant safety risk to the public; and
 - (iii) orders the person to complete the terms and conditions of supervised probation provided by the Division of Adult Probation and Parole created in Section 64-14-202.
- (5)
 - (a) A court shall impose a mandatory jail sentence of 360 days in jail, and may not suspend any portion of the jail sentence or grant early release, if:
 - (i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of an offense under this section;
 - (ii)
 - (A) the violation is the actor's second or subsequent conviction for any level of offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; or
 - (B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; and
 - (iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), an actor who is subject to a mandatory jail sentence under Subsection (5)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (5)(a).
 - (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (5)(a).
- (6) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.
- (7)
 - (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (8)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.

- (9) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (10) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (10)(a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (10)(b).

Enacted by Chapter 362, 2026 General Session

76-18-210 Unlawfully possessing a controlled substance or counterfeit substance with intent to distribute.

- (1)
 - (a) As used in this section:
 - (i) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
 - (ii) "Firearm" means the same as that term is defined in Section 76-11-101.
 - (iii) "Readily accessible for immediate use" means the same as that term is defined in Section 76-11-201.
 - (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) Except as authorized by this chapter or Title 58, Chapter 37, Controlled Substances, and under circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or a fentanyl-related substance, an actor commits unlawfully possessing a controlled substance or counterfeit substance with intent to distribute if the actor knowingly and intentionally possesses a controlled substance or counterfeit substance with the intent to distribute.
- (3)
 - (a) Except as provided in Subsection (3)(b) and subject to Sections (4), (5), and (6), a violation of Subsection (2) is:
 - (i) a second degree felony if the controlled substance or counterfeit substance is:
 - (A) a substance or a counterfeit of a substance classified in Schedule I or II, not including marijuana;
 - (B) a controlled substance analog; or
 - (C) gammahydroxybutyric acid as listed in Schedule III;
 - (ii) a third degree felony if the controlled substance or counterfeit substance is:
 - (A) a substance or a counterfeit of a substance classified in Schedule III or IV;
 - (B) marijuana; or
 - (C) a substance listed in Section 58-37-109; or
 - (iii) a class A misdemeanor if the controlled substance or counterfeit substance is a substance or counterfeit substance of a substance classified in Schedule V.
 - (b) Subject to Subsections (4), (5), and (6), a second or subsequent conviction under:
 - (i) Subsection (3)(a)(i) is a first degree felony;
 - (ii) Subsection (3)(a)(ii) is a second degree felony; or
 - (iii) Subsection (3)(a)(iii) is a third degree felony.
- (4)

- (a) Except as provided under Subsection (4)(b) and subject to Subsection (6), the court shall impose an indeterminate prison term for an actor who has been convicted of a violation of this section that is a first degree felony or a second degree felony under Subsection (3)(a) or (3)(b) if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation of Subsection (2), the actor intentionally or knowingly:
 - (i) used, drew, or exhibited a dangerous weapon that is not a firearm, in an angry, threatening, intimidating, or coercive manner;
 - (ii) used a firearm or had a firearm readily accessible for immediate use; or
 - (iii) distributed a firearm or possessed a firearm with intent to distribute the firearm.
- (b) Subject to Subsections (5) and (6), a court may suspend the indeterminate prison term for an actor convicted under Subsection (4)(a) if the court:
 - (i) details on the record the reasons why it is in the interests of justice to not impose the indeterminate prison term;
 - (ii) makes a finding on the record that the actor does not pose a significant safety risk to the public; and
 - (iii) orders the person to complete the terms and conditions of supervised probation provided by the Division of Adult Probation and Parole created in Section 64-14-202.
- (5)
 - (a) A court shall impose a mandatory jail sentence of 360 days in jail, and may not suspend any portion of the jail sentence or grant early release, if:
 - (i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of an offense under this section;
 - (ii)
 - (A) the violation is the actor's second or subsequent conviction for any level of offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; or
 - (B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; and
 - (iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), an actor who is subject to a mandatory jail sentence under Subsection (5)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (5)(a).
 - (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (5)(a).
- (6) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.
- (7)
 - (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

- (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (8)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (9) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (10) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (10)(a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (10)(b).

Enacted by Chapter 362, 2026 General Session

76-18-211 Unlawfully engaging in a continuing criminal enterprise involving drugs.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) Except as authorized under this chapter or Title 58, Chapter 37, Controlled Substances, and under circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or a fentanyl-related substance, an actor commits unlawfully engaging in a continuing criminal enterprise involving drugs if the actor knowingly and intentionally engages in a continuing criminal enterprise where:
 - (a) the actor participates, directs, or engages in conduct that results in a felony violation of an offense in:
 - (i) this part;
 - (ii) Part 3, Offenses Concerning Drug Paraphernalia;
 - (iii) Part 4, Offenses Concerning Imitation Controlled Substances;
 - (iv) Part 5, Clandestine Drug Labs;
 - (v) Title 58, Chapter 37, Controlled Substances; or
 - (vi) Title 58, Chapter 37c, Controlled Substance Precursors; and
 - (b) the violation described in Subsection (2)(a) is part of a continuing series of two or more violations of an offense described in Subsection (2)(a)(i) through (vi), on separate occasions that are undertaken in concert with five or more persons, with respect to whom the actor occupies a position of organizer, supervisor, or any other position of management.
- (3)
 - (a) Subject to Subsections (3)(b) and (4), a violation of Subsection (2) is a first degree felony punishable by imprisonment for an indeterminate term of not less than:
 - (i) seven years and which may be for life; or

- (ii) 15 years and which may be for life, if the trier of fact determines that the actor knew, or reasonably should have known, that any subordinate described in Subsection (2)(b) was under 18 years old.
- (b)
 - (i) Except as provided in Subsection (3)(b)(ii), imposition or execution of the sentence described in Subsection (3)(a) may not be suspended, and the actor is not eligible for probation.
 - (ii) Subsection (3)(a)(ii) does not apply to an actor who, at the time of the offense, was under 18 years old.
- (4) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.
- (5)
 - (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (6)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (7) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (8) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (8) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (8)(b).

Enacted by Chapter 362, 2026 General Session

76-18-212 Unlawfully allowing possession, use, or distribution of a controlled substance on the premises.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawfully allowing possession, use, or distribution of a controlled substance on the premises if the actor:
 - (a) is an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place; and

- (b) knowingly and intentionally permits a person to occupy the building, room, tenement, vehicle, boat, aircraft, or other place while the person is unlawfully manufacturing, possessing, using, or distributing a controlled substance at or in the building, room, tenement, vehicle, boat, aircraft, or other place.
- (3)
 - (a) Subject to Subsection (3)(b), a violation of Subsection (2) is:
 - (i) a class B misdemeanor on a first conviction;
 - (ii) a class A misdemeanor on a second conviction; or
 - (iii) a third degree felony on a third or subsequent conviction.
 - (b) Upon an actor's conviction of a violation of this section, if the actor has previously been convicted of a violation of Section 76-18-208, 76-18-209, 76-18-210, or 76-18-211, the court shall sentence the actor to a one degree greater penalty than provided in Subsection (3)(a).
- (4)
 - (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) A previous conviction used for a penalty enhancement under this section may only be a conviction that:
 - (i) is from a separate criminal episode than the current conviction under this section; and
 - (ii) has not already been used under a separate penalty enhancement provision to enhance the conviction under this section.
 - (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (6) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (7) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

Enacted by Chapter 362, 2026 General Session

76-18-213 Unlawful possession of an altered or forged prescription or order for a controlled substance.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful possession of an altered or forged prescription or order for a controlled substance if the actor knowingly and intentionally possesses an altered or forged prescription or written order for a controlled substance.
- (3)
 - (a) Subject to Subsection (3)(b), a violation of Subsection (2) is:
 - (i) a class B misdemeanor on a first conviction;
 - (ii) a class A misdemeanor on a second conviction; or
 - (iii) a third degree felony on a third or subsequent conviction.
 - (b) Upon an actor's conviction of a violation of this section, if the actor has previously been convicted of a violation of Section 76-18-208, 76-18-209, 76-18-210, or 76-18-211, the court shall sentence the actor to a one degree greater penalty than provided in Subsection (3)(a).
- (4)
 - (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - (b) A previous conviction used for a penalty enhancement under this section may only be a conviction that:
 - (i) is from a separate criminal episode than the current conviction under this section; and
 - (ii) has not already been used under a separate penalty enhancement provision to enhance the conviction under this section.
 - (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (6) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- (7) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

Enacted by Chapter 362, 2026 General Session

76-18-214 Unlawful use of a license number in the course of manufacturing or distributing a controlled substance.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful use of a license number in the course of manufacturing or distributing a controlled substance if the actor knowingly and intentionally uses, in the course of the manufacture or distribution of a controlled substance, a license number that is fictitious, revoked, suspended, or issued to another person.
- (3) A violation of Subsection (2) is:
 - (a) a class A misdemeanor on a first or second conviction; or
 - (b) a third degree felony on a third or subsequent conviction.
- (4)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
 - (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-215 Unlawful misrepresentation as an authorized person to obtain a controlled substance.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful misrepresentation as an authorized person to obtain a controlled substance if the actor knowingly and intentionally, for the purpose of obtaining a controlled substance, assumes the title of, or represents to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.
- (3) A violation of Subsection (2) is:
 - (a) a class A misdemeanor on a first or second conviction; or
 - (b) a third degree felony on a third or subsequent conviction.
- (4)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.

- (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-216 Unlawful conduct to obtain a controlled substance.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful conduct to obtain a controlled substance if the actor knowingly and intentionally acquires, obtains possession of, procures or attempts to procure the administration of, or obtains a prescription for, a controlled substance by:
 - (a) misrepresentation;
 - (b) failure to disclose receiving a controlled substance from another source;
 - (c) fraud;
 - (d) forgery;
 - (e) deception;
 - (f) subterfuge;
 - (g) alteration of a prescription or written order for a controlled substance; or
 - (h) use of a false name or address.
- (3) A violation of Subsection (2) is:
 - (a) a class A misdemeanor on a first or second conviction; or
 - (b) a third degree felony on a third or subsequent conviction.
- (4)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
 - (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-217 Unlawfully prescribing or dispensing a controlled substance to a person known to be using unlawful means.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawfully prescribing or dispensing a controlled substance to a person known to be using unlawful means if the actor knowingly and intentionally prescribes or dispenses to a person known to be attempting to acquire or obtain possession of, or to procure the administration of, a controlled substance by:
 - (a) misrepresentation;
 - (b) failure by the person to disclose receiving a controlled substance from another source;
 - (c) fraud;
 - (d) forgery;
 - (e) deception;
 - (f) subterfuge;
 - (g) alteration of a prescription or written order for a controlled substance; or
 - (h) the use of a false name or address.
- (3) A violation of Subsection (2) is:
 - (a) a class A misdemeanor on a first or second conviction; or
 - (b) a third degree felony on a third or subsequent conviction.
- (4)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
 - (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-218 Unlawfully making, forging, altering, or uttering a prescription or a written order.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawfully making, forging, altering, or uttering a prescription or a written order if the actor knowingly and intentionally:
 - (a) makes a false or forged prescription or written order for a controlled substance;
 - (b) utters a false or forged prescription or written order for a controlled substance; or

- (c) alters a prescription or written order issued or written under the terms of this chapter or Title 58, Chapter 37, Controlled Substances.
- (3) A violation of Subsection (2) is:
 - (a) a class A misdemeanor on a first or second conviction; or
 - (b) a third degree felony on a third or subsequent conviction.
- (4)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
 - (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-219 Unlawful materials to create a counterfeit controlled substance.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful materials to create a counterfeit controlled substance if the actor knowingly and intentionally makes, distributes, or possesses a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce:
 - (a) the trademark, trade name, or other identifying mark, imprint, or device of another upon any drug, container, or labeling, so as to render a drug a counterfeit controlled substance; or
 - (b) any likeness of a trademark, trade name, or other identifying mark, imprint, or device of another upon any drug, container, or labeling, so as to render a drug a counterfeit controlled substance.
- (3) A violation of Subsection (2) is a third degree felony.
- (4)
 - (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;

- (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5) (a) indicates that an assessment is appropriate; and
- (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-220 Trafficking of fentanyl or a fentanyl-related substance.

- (1)
 - (a) As used in this section:
 - (i) "Fentanyl-related substance" means a derivative or analog of fentanyl including:
 - (A) carfentanil;
 - (B) sufentanil;
 - (C) alfentanil; or
 - (D) a fentanyl-related substance that is a controlled substance as described in Section 58-37-107.
 - (ii) "Trafficking amount of fentanyl or a fentanyl-related substance" means 100 grams or more of any composition or mixture, including pills, that contains any quantity of fentanyl or a fentanyl-related substance.
 - (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits trafficking of fentanyl or a fentanyl-related substance if the actor intentionally:
 - (a) produces, manufactures, or dispenses a trafficking amount of fentanyl or a fentanyl-related substance;
 - (b) distributes a trafficking amount of fentanyl or a fentanyl-related substance;
 - (c) agrees, consents, offers, or arranges to distribute a trafficking amount of fentanyl or a fentanyl-related substance; or
 - (d) possesses a trafficking amount of fentanyl or a fentanyl-related substance with the intent to distribute the fentanyl or fentanyl-related substance.
- (3) A violation of Subsection (2) is a first degree felony.
- (4) Except as provided in Subsection (5) or (6), a court may not grant probation, suspend the execution or imposition of the sentence, order hospitalization, or enter a judgment for a lower category of offense under Section 76-3-402, if the effect of which would in any way shorten the actor's required indeterminate prison sentence, when:
 - (a) sentencing an actor for a violation described in Subsection (3);
 - (b) sentencing an actor for a conviction of an attempt to commit trafficking of fentanyl or a fentanyl-related substance in accordance with Section 76-4-102; or
 - (c) sentencing an actor who has had the first degree felony classified in Subsection (3) reduced one degree by a prosecuting attorney in accordance with Section 77-2-2.3.
- (5) Except as provided by Subsection (7), a court may suspend the execution or imposition of a prison sentence under Subsection (4) if the court:
 - (a) makes a finding on the record that:
 - (i) details why it is in the interests of justice not to execute or impose the prison sentence; and
 - (ii) the actor does not pose a significant safety risk to the general public; and
 - (b) orders the actor to complete the terms and conditions of probation that is supervised by the Division of Adult Probation and Parole.
- (6) Subsection (4) does not apply if the sentencing court finds that the actor:
 - (a) was under 18 years old at the time of the offense; and

- (b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.
- (7)
 - (a) If a court seeks to suspend the execution or imposition of a prison sentence under Subsection (5), the court shall impose the mandatory jail sentence described in Subsection (7)(b), and may not suspend any portion of the jail sentence or grant early release, if:
 - (i) the court suspends the imposition of a prison sentence for a conviction under Subsection (2);
 - (ii)
 - (A) the violation is the actor's second or subsequent conviction for an offense under Subsection (2); or
 - (B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under Subsection (2); and
 - (iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
 - (b) The mandatory jail sentence referred to in Subsection (7)(a) is 360 days in jail.
 - (c)
 - (i) Except as provided in Subsection (7)(c)(ii), an actor who is subject to a mandatory jail sentence under Subsection (7)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (7)(b).
 - (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (7)(b).
- (8) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-221 Unlawful failure to report a practitioner's diversion of drugs.

- (1)
 - (a) As used in this section:
 - (i) "Diversion" means a practitioner's transfer of a significant amount of drugs to another individual for an unlawful purpose.
 - (ii) "Drug" means a Schedule II or Schedule III controlled substance, as defined in Section 58-37-108, that is an opiate.
 - (iii) "HIPAA" means the same as that term is defined in Section 26B-3-126.
 - (iv) "Opiate" means the same as that term is defined in Section 58-37-101.
 - (v) "Practitioner" means an individual:
 - (A) licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice; or
 - (B) employed by a person who is licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice or standard operations.
 - (vi) "Significant amount" means an aggregate amount equal to, or more than, 500 morphine milligram equivalents calculated in accordance with guidelines developed by the Centers for Disease Control and Prevention.

- (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) An actor commits unlawful failure to report a practitioner's diversion of drugs if the actor:
 - (a) knows that a practitioner is involved in diversion; and
 - (b) knowingly fails to report the diversion described in Subsection (2)(a) to a peace officer or law enforcement agency.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) Subsection (2) does not apply to the extent that an actor is prohibited from reporting by 42 C.F.R. Part 2 or HIPAA.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-222 Possession, sale, or use of an adulterant or synthetic urine.

- (1)
 - (a) As used in this section, "adulterant" means a substance that may be added to human urine or another human bodily fluid to change, dilute, or interfere with the composition, chemical properties, physical appearance, or physical properties of the urine or other bodily fluid.
 - (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
- (2) Under circumstances not amounting to a violation of Section 76-8-510.5, Tampering with evidence, an actor commits possession, sale, or use of an adulterant or synthetic urine if the actor:
 - (a) distributes, possesses, or sells synthetic urine;
 - (b) distributes or sells an adulterant with:
 - (i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening test; or
 - (ii) knowledge that the recipient of the adulterant intends to use the adulterant to defeat or defraud an alcohol or drug screening test;
 - (c) possesses an adulterant with intent to use the adulterant to defeat or defraud an alcohol or drug screening test; or
 - (d) intentionally uses:
 - (i) an adulterant to defeat or defraud an alcohol or drug screening test;
 - (ii) the actor's urine or bodily fluid to defeat or defraud an alcohol or drug screening test if the urine or bodily fluid was expelled or withdrawn before the time at which the urine or bodily fluid is collected for the test; or
 - (iii) the urine or bodily fluid of another individual to defeat or defraud an alcohol or drug screening test.
- (3) A violation of Subsection (2) is an infraction.
- (4) An actor does not commit a violation of Subsection (2) if the actor is engaging in conduct described in this section for the sole purpose of education or medical or scientific research.
- (5) This section does not apply to persons currently under:
 - (a) court-ordered supervision; or
 - (b) the supervision of the Board of Pardons and Parole.
- (6) An entity that collects specimens for the purpose of testing and screening, and reports the results back to an employer, shall report to the employer and the Department of Public Safety if a report is received that indicates that adulterated or synthetic urine was submitted for an alcohol or drug screening test.

Renumbered and Amended by Chapter 362, 2026 General Session

Part 3 Offenses Concerning Drug Paraphernalia

76-18-301 Definitions.

As used in this part:

- (1)
 - (a) "Drug paraphernalia" means any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, inject, ingest, inhale, or to otherwise introduce a controlled substance into the human body in violation of Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances.
 - (b) "Drug paraphernalia" includes:
 - (i) a kit used, or intended for use, in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;
 - (ii) a kit used, or intended for use, in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
 - (iii) an isomerization device used, or intended for use, to increase the potency of any species of plant that is a controlled substance;
 - (iv) except as provided in Subsection (1)(c), testing equipment used, or intended for use, to identify or to analyze the strength, effectiveness, or purity of a controlled substance;
 - (v) a scale or balance used, or intended for use, in weighing or measuring a controlled substance;
 - (vi) a diluent or adulterant, such as quinine hydrochloride, mannitol, mannited, dextrose and lactose, used, or intended for use, to cut a controlled substance;
 - (vii) a separation gin or sifter used, or intended for use, to remove twigs, seeds, or other impurities from marihuana;
 - (viii) a blender, bowl, container, spoon, or mixing device used, or intended for use, to compound a controlled substance;
 - (ix) a capsule, balloon, envelope, or other container used, or intended for use, to package a small quantity of a controlled substance;
 - (x) a container or other object used, or intended for use, to store or conceal a controlled substance;
 - (xi) a hypodermic syringe, needle, or other object used, or intended for use, to parenterally inject a controlled substance into the human body, except as provided in Section 76-18-304, 76-18-305, or 76-18-306; and
 - (xii) an object used, or intended for use, to ingest, inhale, or otherwise introduce a controlled substance into the human body, including:
 - (A) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl;
 - (B) a water pipe;
 - (C) a carburetion tube or device;
 - (D) a smoking or carburetion mask;

- (E) an object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand, sometimes referred to as a "roach clip";
 - (F) a miniature cocaine spoon or cocaine vial;
 - (G) a chamber pipe;
 - (H) a carburetor pipe;
 - (I) an electric pipe;
 - (J) an air-driven pipe;
 - (K) a chillum;
 - (L) a bong; and
 - (M) an ice pipe or chiller.
- (c) "Drug paraphernalia" does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains:
- (i) a controlled substance that can cause physical harm or death; or
 - (ii) a chemical or compound that can cause physical harm or death.
- (2) "Minor" means an individual who is under 18 years old.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-302 Considerations in determining whether an object is drug paraphernalia.

In determining whether an object is drug paraphernalia, the trier of fact, in addition to all other logically relevant factors, should consider:

- (1) statements by an owner or by anyone in control of the object concerning the object's use;
- (2) prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to a controlled substance;
- (3) the proximity of the object, in time and space, to a direct violation of this part;
- (4) the proximity of the object to a controlled substance;
- (5) the existence of any residue of a controlled substance on the object;
- (6) instructions, whether oral or written, provided with the object concerning the object's use;
- (7) descriptive materials accompanying the object that explain or depict the object's use;
- (8) national and local advertising concerning the object's use;
- (9) the manner in which the object is displayed for sale;
- (10) whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (11) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (12) the existence and scope of legitimate uses of the object in the community;
- (13) whether the object is subject to Section 76-18-304, 76-18-305, or 76-18-306; and
- (14) expert testimony concerning the object's use.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-303 Seizure -- Forfeiture -- Property rights -- Bystander defense.

- (1) Drug paraphernalia is subject to seizure and forfeiture in accordance with the procedures and substantive protections of:
 - (a) Title 77, Chapter 11a, Seizure of Property and Contraband; and
 - (b) Title 77, Chapter 11b, Forfeiture of Seized Property.
- (2) It is an affirmative defense to an allegation of the commission of an offense under this part if the actor or bystander:

- (a) reasonably believes that the actor or another individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;
- (b) reports, or assists an individual who reports, in good faith, the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the actor is the subject of a report made under this section;
- (c) provides, in the report described in Subsection (2)(b), a functional description of the actual location of the overdose event that facilitates responding to the individual experiencing the overdose event;
- (d) remains at the location of the individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the individual experiencing an overdose event is located until a responding law enforcement officer arrives;
- (e) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the individual experiencing the overdose event and any substances the individual may have injected, inhaled, or otherwise introduced into the individual's body; and
- (f) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-304 Unlawful use of drug paraphernalia.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.
- (2) An actor commits unlawful use of drug paraphernalia if the actor uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body in violation of this part.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) An actor may not be charged with possession of a hypodermic syringe as drug paraphernalia if the syringe is unused and is in a sealed sterile package.
- (5) In a prosecution under this section for possession of a hypodermic syringe or needle, the prosecutor or the court may dismiss the charge if the actor establishes, by a preponderance of the evidence, that:
 - (a) at the time of the offense:
 - (i) the hypodermic syringe or needle was stored in a sealed puncture-resistant container, such as a medical sharps disposal container, that was clearly marked on the outside of the container with a warning that identified the container as containing medical waste; and
 - (ii) the actor was enrolled or participating in a syringe exchange program under Section 26B-7-117; and
 - (b) after the day of the offense, but before the day on which the case is adjudicated, the actor demonstrated an intent to engage with substance abuse treatment by commencing, continuing, or completing a substance use disorder treatment program.
- (6) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part.

- (7) If a minor is found by a court to have violated this section, the court may order the minor to complete:
- (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7) (a) indicates that an assessment is appropriate; or
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-305 Unlawful delivery of drug paraphernalia.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.
- (2) An actor commits unlawful delivery of drug paraphernalia if the actor delivers, possesses with intent to deliver, or manufactures with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of this part.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
 - (b) A violation of Subsection (2) is a third degree felony if the actor:
 - (i) is 18 years old or older;
 - (ii) delivers drug paraphernalia to a minor; and
 - (iii) is older than the minor by three or more years.
- (4) An actor may not be charged with distribution of hypodermic syringes as drug paraphernalia if at the time of sale or distribution, the syringes are:
- (a) in a sealed sterile package; and
 - (b) for a legitimate medical purpose, including:
 - (i) injection of prescription medications as prescribed by a practitioner; or
 - (ii) the prevention of disease transmission.
- (5) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part.
- (6) If a minor is found by a court to have violated this section, the court may order the minor to complete:
- (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (6) (a) indicates that an assessment is appropriate; or
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (6)(b).

Enacted by Chapter 362, 2026 General Session

76-18-306 Unlawful advertisement of drug paraphernalia.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.
- (2) An actor commits unlawful advertisement of drug paraphernalia if the actor:
- (a) places in this state in a newspaper, magazine, handbill, or other publication an advertisement; and

- (b) knows that the purpose of the advertisement described in Subsection (2)(a) is to promote the sale of drug paraphernalia.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part.
- (5) If a minor is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5) (a) indicates that an assessment is appropriate; or
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

Part 4

Offenses Concerning Imitation Controlled Substances

76-18-401 Definitions.

As used in this part:

- (1) "Controlled substance" has the same meaning as provided in Section 58-37-101.
- (2) "Distribute" means the actual, constructive, or attempted sale, transfer, delivery, or dispensing to another of an imitation controlled substance.
- (3)
 - (a) "Imitation controlled substance" means a substance designed or packaged to substantially resemble any legally or illegally manufactured controlled substance.
 - (b) "Imitation controlled substance" does not include:
 - (i) a controlled substance; or
 - (ii) a substance represented to be any legally or illegally manufactured controlled substance under Subsection 58-37-101(1)(h)(ii).
- (4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, tableting, packaging or repackaging, labeling or relabeling, of an imitation controlled substance.
- (5) "Minor" means an individual who is under 18 years old.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-402 Exemption of certain persons -- Bystander defense.

- (1) No civil or criminal liability shall be imposed by virtue of this part on:
 - (a) any person registered under Title 58, Chapter 37, Controlled Substances, who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or
 - (b) a law enforcement officer acting in the course and legitimate scope of the law enforcement officer's employment.
- (2) It is an affirmative defense to an allegation of the commission of an offense under this part if the actor or bystander:

- (a) reasonably believes that the actor or another individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;
- (b) reports, or assists an individual who reports, in good faith, the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the actor is the subject of a report made under this section;
- (c) provides, in the report described in Subsection (2)(b), a functional description of the actual location of the overdose event that facilitates responding to the individual experiencing the overdose event;
- (d) remains at the location of the individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the individual experiencing an overdose event is located until a responding law enforcement officer arrives;
- (e) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the individual experiencing the overdose event and any substances the individual may have injected, inhaled, or otherwise introduced into the individual's body; and
- (f) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-403 Unlawful use of an imitation controlled substance.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.
- (2) An actor commits unlawful use of an imitation controlled substance if the actor uses, or possesses with the intent to use, an imitation controlled substance.
- (3) A violation of Subsection (2) is a class C misdemeanor.
- (4) If a minor is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (4) (a) indicates that an assessment is appropriate; or
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (4)(b).

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-404 Unlawful manufacture of an imitation controlled substance.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.
- (2) An actor commits unlawful manufacture of an imitation controlled substance if the actor manufactures an imitation controlled substance.
- (3) Subject to Subsection (4), a violation of Subsection (2) is a class A misdemeanor.
- (4) A violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.
- (5) If a minor is found by a court to have violated this section, the court may order the minor to complete:

- (a) a screening as defined in Section 41-6a-501;
- (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)
 - (a) indicates that an assessment is appropriate; or
- (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-405 Unlawful distribution or possession with intent to distribute an imitation controlled substance.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.
- (2) An actor commits unlawful distribution or possession with intent to distribute an imitation controlled substance if the actor:
 - (a) distributes an imitation controlled substance; or
 - (b) possesses an imitation controlled substance with the intent to distribute the imitation controlled substance.
- (3) Subject to Subsection (4), a violation of Subsection (2) is a class A misdemeanor.
- (4) A violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.
- (5) If a minor is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)
 - (a) indicates that an assessment is appropriate; or
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Enacted by Chapter 362, 2026 General Session

76-18-406 Unlawful advertisement of an imitation controlled substance.

- (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.
- (2) An actor commits unlawful advertisement of an imitation controlled substance if the actor:
 - (a) places in a newspaper, magazine, handbill, or other publication, or posts or distributes in any public place, an advertisement or solicitation; and
 - (b) takes the action described in Subsection (2)(a) with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of an imitation controlled substance.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) If a minor is found by a court to have violated this section, the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (4)
 - (a) indicates that an assessment is appropriate; or
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (4)(b).

Renumbered and Amended by Chapter 362, 2026 General Session

Part 5 Clandestine Drug Labs

76-18-501 Definitions.

(1) As used in this part:

(a)

- (i) "Booby trap" means a concealed or camouflaged device designed to cause bodily injury when triggered by the action of a person making contact with the device.
- (ii) "Booby trap" includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices for the production of toxic fumes or gases.

(b) "Clandestine laboratory operation" means the:

- (i) purchase or procurement of chemicals, supplies, equipment, or laboratory location for the illegal manufacture of specified controlled substances;
- (ii) transportation or arranging for the transportation of chemicals, supplies, or equipment for the illegal manufacture of specified controlled substances;
- (iii) setting up of equipment or supplies in preparation for the illegal manufacture of specified controlled substances;
- (iv) activity of compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing of a substance, including a controlled substance precursor, or the packaging, repackaging, labeling, or relabeling of a container holding a substance that is a product of any of these activities, when the substance is to be used for the illegal manufacture of specified controlled substances;
- (v) illegal manufacture of specified controlled substances; or
- (vi) distribution or disposal of chemicals, equipment, supplies, or products used in or produced by the illegal manufacture of specified controlled substances.

(c) "Controlled substance precursor" means those chemicals designated in Title 58, Chapter 37c, Controlled Substance Precursors, except those substances designated in Subsection 58-37c-101(1)(kk) or (ll).

(d) "Counterfeit opioid" means an opioid or container or labeling of an opioid that:

(i)

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance that falsely purports to be an opioid distributed by another manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be an opioid distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under this Subsection (1)(d)(i) or the appearance of the container or labeling of the opioid; or

(ii)

(A) is falsely represented to be any legally or illegally manufactured opioid; and

(B) a reasonable person would believe to be a legal or illegal opioid.

(e) "Disposal" means the abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing of hazardous or dangerous material into or on property, land, or water so that the

material may enter the environment, be emitted into the air, or discharged into any waters, including groundwater.

- (f) "Hazardous or dangerous material" means a substance that because of the substance's quantity, concentration, physical characteristics, or chemical characteristics may cause or significantly contribute to an increase in mortality, an increase in serious illness, or may pose a substantial present or potential future hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed.
- (g) "Illegal manufacture of specified controlled substances" means in violation of Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances, the:
 - (i) compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing for the purpose of producing methamphetamine, other amphetamine compounds as listed in Schedule I of Title 58, Chapter 37, Controlled Substances, phencyclidine, narcotic analgesic analogs as listed in Schedule I of Title 58, Chapter 37, Controlled Substances, lysergic acid diethylamide, mescaline, tetrahydrocannabinol, or counterfeit opioid;
 - (ii) conversion of cocaine or methamphetamine to their base forms; or
 - (iii) extraction, concentration, or synthesis of tetrahydrocannabinol.
- (h) "Opioid" means the same as that term is defined in Section 58-37f-303.
- (i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-403.
- (2) Unless otherwise specified, the definitions in Section 58-37-101 also apply to this part.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-502 Purpose -- Coordination with other sections.

- (1) The clandestine production of methamphetamine, other amphetamines, phencyclidine, narcotic analgesic analogs, so-called "designer drugs," various hallucinogens, concentrated tetrahydrocannabinols, counterfeit opioids, cocaine and methamphetamine, base "crack" cocaine and methamphetamine "ice" respectively, has increased dramatically throughout the western states and Utah.
- (2) These highly technical illegal operations create substantial dangers to the general public and environment from fire, explosions, and the release of toxic chemicals.
- (3) By their very nature, these activities often involve a number of persons in a conspiratorial enterprise to bring together all necessary components for clandestine production, to thwart regulation and detection, and to distribute the final product.
- (4) Therefore, the Legislature enacts this part for prosecution of specific illegal laboratory operations.
- (5) With regard to the controlled substances specified herein, this part shall control, notwithstanding the prohibitions and penalties in Part 2, Offenses Concerning Controlled Substances, and Title 58, Chapter 37, Controlled Substances.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-503 Department of Public Safety enforcement authority.

- (1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section 53-10-103.
- (2)
 - (a) The division has authority to enforce this part.
 - (b) To carry out enforcement of this part, the division may:

- (i) assist the law enforcement agencies of the state in enforcing this part;
- (ii) conduct investigations to enforce this part;
- (iii) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and
- (iv) work in cooperation with the Division of Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-504 Seizure and forfeiture.

Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real property used in furtherance of a clandestine laboratory operation are subject to seizure and forfeiture under the procedures and substantive protections of Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-505 Legal inference of intent -- Illegal possession of a controlled substance precursor or clandestine laboratory equipment.

The trier of fact may infer that an actor intended to engage in a clandestine laboratory operation if the actor:

- (1) is in illegal possession of a controlled substance precursor; or
- (2) illegally possesses, or attempts to illegally possess, a controlled substance or controlled substance precursor and is in possession of any one of the following pieces of equipment:
 - (a) glass reaction vessel;
 - (b) separatory funnel;
 - (c) glass condenser;
 - (d) analytical balance;
 - (e) heating mantle;
 - (f) pill press machine or similar device;
 - (g) closed loop extraction system;
 - (h) extraction tube; or
 - (i) rotary evaporator.

Renumbered and Amended by Chapter 362, 2026 General Session

76-18-506 Unlawful clandestine drug offense.

- (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-501 apply to this section.
- (2) An actor commits an unlawful clandestine drug offense if the actor knowingly or intentionally:
 - (a) possesses a controlled substance or a controlled substance precursor with the intent to engage in a clandestine laboratory operation;
 - (b) possesses laboratory equipment or supplies with the intent to engage in a clandestine laboratory operation;
 - (c) sells, distributes, or otherwise supplies a controlled substance, controlled substance precursor, laboratory equipment, or laboratory supplies, knowing or having reasonable cause to believe any of these items will be used for a clandestine laboratory operation;

- (d) evades the recordkeeping provisions of Title 58, Chapter 37c, Controlled Substance Precursors, knowing or having reasonable cause to believe that the material distributed or received will be used for a clandestine laboratory operation;
 - (e) conspires with or aids another to engage in a clandestine laboratory operation;
 - (f) produces or manufactures, or possesses with intent to produce or manufacture, a controlled or counterfeit substance except as authorized under Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances;
 - (g) transports or conveys a controlled or counterfeit substance with the intent to distribute or to be distributed by the actor transporting or conveying the controlled or counterfeit substance or by another person regardless of whether the final destination for the distribution is within this state or another location; or
 - (h) engages in compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing of any substance, including a controlled substance precursor, or the packaging, repackaging, labeling, or relabeling of a container holding a substance that is a product of any of these activities, knowing or having reasonable cause to believe that the substance is a product of any of these activities and will be used in the illegal manufacture of specified controlled substances.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony punishable by imprisonment for an indeterminate term of not less than three years nor more than 15 years.
 - (b) Subject to Subsection (4), a violation of Subsection (2)(a), (b), (e), (f), or (h) is a first degree felony if the trier of fact also finds any one of the following conditions occurred in conjunction with the violation:
 - (i) possession of a firearm;
 - (ii) use of a booby trap;
 - (iii) illegal possession, transportation, or disposal of hazardous or dangerous material, or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment;
 - (iv) the intended laboratory operation was to take place or did take place within 500 feet of a residence, place of business, church, or school;
 - (v) the clandestine laboratory operation actually produced any amount of a specified controlled substance or a counterfeit opioid; or
 - (vi) the intended clandestine laboratory operation was for the production of cocaine base or methamphetamine base.
- (4) If the trier of fact finds that two or more of the conditions listed in Subsection (3)(b) occurred in conjunction with a violation of Subsection (2)(a), (b), (e), (f), or (h) at sentencing for the first degree felony:
- (a) probation may not be granted;
 - (b) the execution or imposition of the sentence may not be suspended; and
 - (c) the court may not enter a judgment for a lower category of offense.

Renumbered and Amended by Chapter 362, 2026 General Session