

Representative Jack A. Seitz proposes the following substitute bill:

AMENDMENTS TO CONTROLLED SUBSTANCE

ACT

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Peter C. Knudson

This act modifies the Controlled Substance Act by prohibiting the refill of a Schedule II controlled substance, adds dichloralphenazone under Schedule IV, reschedules buprenorphine to Schedule III, and provides that gamma hydroxy butyrate (GHB) that is used in an FDA-approved formulation is in Schedule III. This act also provides that specified penalties under the Controlled Substance Act are to be deposited as ^h [nonlapsing] ^h dedicated credits to be used for the operating costs of the Controlled Substance Database.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

58-37-4, as last amended by Chapters 213 and 271, Laws of Utah 2000

58-37-5.5, as enacted by Chapter 271, Laws of Utah 2000

58-37-6, as last amended by Chapter 137, Laws of Utah 2002

58-37-7.5, as last amended by Chapter 84, Laws of Utah 2002

58-37-8, as last amended by Chapters 12 and 303, Laws of Utah 1999

ENACTS:

58-37-7.7, Utah Code Annotated 1953

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

Section 1. Section **58-37-4** is amended to read:

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

(1) There are established five schedules of controlled substances known as Schedules I,



26 II, III, IV, and V which shall consist of substances listed in this section.

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

29 (a) Schedule I:

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

34 (A) Acetyl-alpha-methylfentanyl

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

36 (B) Acetylmethadol;

37 (C) Allylprodine;

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

40 (E) Alphameprodine;

41 (F) Alphamethadol;

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

44 (H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
45 piperidinyl]-N-phenylpropanamide);

46 (I) Benzethidine;

47 (J) Betacetylmethadol;

48 (K) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
49 piperidinyl]-N-phenylpropanamide);

50 (L) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-
51 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

52 (M) Betameprodine;

53 (N) Betamethadol;

54 (O) Betaprodine;

55 (P) Clonitazene;

56 (Q) Dextromoramide;

- 57 (R) Diampromide;
58 (S) Diethylthiambutene;
59 (T) Difenoxin;
60 (U) Dimenoxadol;
61 (V) Dimepheptanol;
62 (W) Dimethylthiambutene;
63 (X) Dioxaphetyl butyrate;
64 (Y) Dipipanone;
65 (Z) Ethylmethylthiambutene;
66 (AA) Etonitazene;
67 (BB) Etoxidine;
68 (CC) Furethidine;
69 (DD) Hydroxypethidine;
70 (EE) Ketobemidone;
71 (FF) Levomoramide;
72 (GG) Levophenacymorphan;
73 (HH) Morpheridine;
74 (II) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
75 (JJ) Noracymethadol;
76 (KK) Norlevorphanol;
77 (LL) Normethadone;
78 (MM) Norpipanone;
79 (NN) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]
80 propanamide;
81 (OO) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
82 (PP) Phenadoxone;
83 (QQ) Phenampromide;
84 (RR) Phenomorphan;
85 (SS) Phenoperidine;
86 (TT) Piritramide;
87 (UU) Proheptazine;

- 88 (VV) Properidine;
89 (WW) Propiram;
90 (XX) Racemoramide;
91 (YY) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
92 (ZZ) Tilidine;
93 (AAA) Trimeperidine;
94 (BBB) 3-methylfentanyl, including the optical and geometric isomers
95 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide); and
96 (CCC) 3-methylthiofentanyl
97 (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
98 (ii) Unless specifically excepted or unless listed in another schedule, any of the
99 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
100 salts, isomers, and salts of isomers is possible within the specific chemical designation:
101 (A) Acetorphine;
102 (B) Acetyldihydrocodeine;
103 (C) Benzylmorphine;
104 (D) Codeine methylbromide;
105 (E) Codeine-N-Oxide;
106 (F) Cyprenorphine;
107 (G) Desomorphine;
108 (H) Dihydromorphine;
109 (I) Drotebanol;
110 (J) Etorphine (except hydrochloride salt);
111 (K) Heroin;
112 (L) Hydromorphenol;
113 (M) Methyldesorphine;
114 (N) Methylhydromorphine;
115 (O) Morphine methylbromide;
116 (P) Morphine methylsulfonate;
117 (Q) Morphine-N-Oxide;
118 (R) Myrophine;

- 119 (S) Nicocodeine;
- 120 (T) Nicomorphine;
- 121 (U) Normorphine;
- 122 (V) Pholcodine; and
- 123 (W) Thebacon.
- 124 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 125 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
- 126 substances, or which contains any of their salts, isomers, and salts of isomers when the
- 127 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
- 128 designation; as used in this Subsection (2)(iii) only, "isomer" includes the optical, position, and
- 129 geometric isomers:
- 130 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
- 131 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;
- 132 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:
- 133 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- 134 (C) 4-bromo-2,5-dimethoxypenethylamine, some trade or other names:
- 135 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 136 (D) 2,5-dimethoxyamphetamine, some trade or other names:
- 137 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 138 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- 139 (F) 4-methoxyamphetamine, some trade or other names:
- 140 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- 141 (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- 142 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:
- 143 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
- 144 (I) 3,4-methylenedioxy amphetamine;
- 145 (J) 3,4-methylenedioxymethamphetamine (MDMA);
- 146 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
- 147 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- 148 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
- 149 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

- 150 (M) 3,4,5-trimethoxy amphetamine;
- 151 (N) Bufotenine, some trade and other names: 3-(β
- 152 -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
- 153 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- 154 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- 155 (P) Dimethyltryptamine, some trade or other names: DMT;
- 156 (Q) Ibogaine, some trade and other names:
- 157 7-Ethyl-6,6β,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
- 158 [5,4-b] indole; Tabernanthe iboga;
- 159 (R) Lysergic acid diethylamide;
- 160 (S) Marijuana;
- 161 (T) Mescaline;
- 162 (U) Parahexyl, some trade or other names:
- 163 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- 164 (V) Peyote, meaning all parts of the plant presently classified botanically as
- 165 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
- 166 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
- 167 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
- 168 (W) N-ethyl-3-piperidyl benzilate;
- 169 (X) N-methyl-3-piperidyl benzilate;
- 170 (Y) Psilocybin;
- 171 (Z) Psilocyn;
- 172 (AA) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the
- 173 plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives,
- 174 and their isomers with similar chemical structure and pharmacological activity such as the
- 175 following: Δ1 cis or trans tetrahydrocannabinol, and their optical isomers Δ6 cis or trans
- 176 tetrahydrocannabinol, and their optical isomers Δ3,4 cis or trans tetrahydrocannabinol, and its
- 177 optical isomers, and since nomenclature of these substances is not internationally standardized,
- 178 compounds of these structures, regardless of numerical designation of atomic positions
- 179 covered;
- 180 (BB) Ethylamine analog of phencyclidine, some trade or other names:

181 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
182 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
183 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:
184 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
185 (DD) Thiophene analog of phencyclidine, some trade or other names:
186 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and
187 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.
188 (iv) Unless specifically excepted or unless listed in another schedule, any material
189 compound, mixture, or preparation which contains any quantity of the following substances
190 having a depressant effect on the central nervous system, including its salts, isomers, and salts
191 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
192 specific chemical designation:
193 (A) Mecloqualone; and
194 (B) Methaqualone.
195 (v) Any material, compound, mixture, or preparation containing any quantity of the
196 following substances having a stimulant effect on the central nervous system, including their
197 salts, isomers, and salts of isomers:
198 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
199 4,5-dihydro-5-phenyl-2-oxazolamine;
200 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,
201 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
202 (C) Fenethylamine;
203 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;
204 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one;
205 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
206 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
207 optical isomers;
208 (E) (±)cis-4-methylaminorex ((±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
209 (F) N-ethylamphetamine; and
210 (G) N,N-dimethylamphetamine, also known as
211 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

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

215 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

216 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

217 (vii) Unless specifically excepted or unless listed in another schedule, any material,
218 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
219 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

220 (b) Schedule II:

221 (i) Unless specifically excepted or unless listed in another schedule, any of the
222 following substances whether produced directly or indirectly by extraction from substances of
223 vegetable origin, or independently by means of chemical synthesis, or by a combination of
224 extraction and chemical synthesis:

225 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
226 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
227 and their respective salts, but including:

228 (I) Raw opium;

229 (II) Opium extracts;

230 (III) Opium fluid;

231 (IV) Powdered opium;

232 (V) Granulated opium;

233 (VI) Tincture of opium;

234 (VII) Codeine;

235 (VIII) Ethylmorphine;

236 (IX) Etorphine hydrochloride;

237 (X) Hydrocodone;

238 (XI) Hydromorphone;

239 (XII) Metopon;

240 (XIII) Morphine;

241 (XIV) Oxycodone;

242 (XV) Oxymorphone; and

- 243 (XVI) Thebaine;
- 244 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or
245 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
246 substances may not include the isoquinoline alkaloids of opium;
- 247 (C) Opium poppy and poppy straw;
- 248 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
249 any salt, compound, derivative, or preparation which is chemically equivalent or identical with
250 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
251 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
252 produced, except the substances may not include decocainized coca leaves or extraction of coca
253 leaves, which extractions do not contain cocaine or ecgonine; and
- 254 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
255 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.
- 256 (ii) Unless specifically excepted or unless listed in another schedule, any of the
257 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
258 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
259 chemical designation, except dextrophan and levopropoxyphene:
- 260 (A) Alfentanil;
- 261 (B) Alphaprodine;
- 262 (C) Anileridine;
- 263 (D) Bezitramide;
- 264 (E) Bulk dextropropoxyphene (nondosage forms);
- 265 (F) Carfentanil;
- 266 (G) Dihydrocodeine;
- 267 (H) Diphenoxylate;
- 268 (I) Fentanyl;
- 269 (J) Isomethadone;
- 270 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
271 levomethadyl acetate, or LAAM;
- 272 (L) Levomethorphan;
- 273 (M) Levorphanol;

- 274 (N) Metazocine;
- 275 (O) Methadone;
- 276 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 277 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
- 278 acid;
- 279 (R) Pethidine (meperidine);
- 280 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 281 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 282 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 283 (V) Phenazocine;
- 284 (W) Piminodine;
- 285 (X) Racemethorphan;
- 286 (Y) Racemorphan;
- 287 (Z) Remifentanyl; and
- 288 (AA) Sufentanyl.
- 289 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 290 compound, mixture, or preparation which contains any quantity of the following substances
- 291 having a stimulant effect on the central nervous system:
- 292 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 293 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- 294 (C) Phenmetrazine and its salts; and
- 295 (D) Methylphenidate.
- 296 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 297 compound, mixture, or preparation which contains any quantity of the following substances
- 298 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 299 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 300 specific chemical designation:
- 301 (A) Amobarbital;
- 302 (B) Glutethimide;
- 303 (C) Pentobarbital;
- 304 (D) Phencyclidine;

305 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and
306 1-piperidinocyclohexanecarbonitrile (PCC); and

307 (F) Secobarbital.

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

310 Some of these substances may be known by trade or other names: phenyl-2-propanone,
311 P2P; benzyl methyl ketone, methyl benzyl ketone.

312 (vi) Nabilone, another name for nabilone:

313 (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
314 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

315 (c) Schedule III:

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

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

327 (B) Benzphetamine;

328 (C) Chlorphentermine;

329 (D) Clortermine; and

330 (E) Phendimetrazine.

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

334 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
335 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients

336 which are not listed in any schedule;

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

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

342 (D) Chlorhexadol;

343 (E) Buprenorphine;

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

347 [~~F~~] (G) Ketamine, its salts, isomers, and salts of isomers, some other names for
348 ketamine: \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone.

349 [~~F~~] (H) Lysergic acid;

350 [~~G~~] (I) Lysergic acid amide;

351 [~~H~~] (J) Methyprylon;

352 [~~I~~] (K) Sulfondiethylmethane;

353 [~~J~~] (L) Sulfonethylmethane;

354 [~~K~~] (M) Sulfonmethane; and

355 [~~L~~] (N) Tiletamine and zolazepam or any of their salts, some trade or other names for
356 a tiletamine-zolazepam combination product: Telazol, some trade or other names for
357 tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for
358 zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e]
359 [1,4]-diazepin-7(1H)-one, flupyrazapon.

360 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
361 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
362 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
363 (-)-delta-9-(trans)-tetrahydrocannabinol.

364 (iv) Nalorphine.

365 (v) Unless specifically excepted or unless listed in another schedule, any material,
366 compound, mixture, or preparation containing limited quantities of any of the following

367 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

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

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

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

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

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

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

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

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

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

394 (A) Boldenone;

395 (B) Chlorotestosterone (4-chlortestosterone);

396 (C) Clostebol;

397 (D) Dehydrochlormethyltestosterone;

- 398 (E) Dihydrotestosterone (4-dihydrotestosterone);
- 399 (F) Drostanolone;
- 400 (G) Ethylestrenol;
- 401 (H) Fluoxymesterone;
- 402 (I) Formebolone (formebolone);
- 403 (J) Mesterolone;
- 404 (K) Methandienone;
- 405 (L) Methandranone;
- 406 (M) Methandriol;
- 407 (N) Methandrostenolone;
- 408 (O) Methenolone;
- 409 (P) Methyltestosterone;
- 410 (Q) Mibolerone;
- 411 (R) Nandrolone;
- 412 (S) Norethandrolone;
- 413 (T) Oxandrolone;
- 414 (U) Oxymesterone;
- 415 (V) Oxymetholone;
- 416 (W) Stanolone;
- 417 (X) Stanozolol;
- 418 (Y) Testolactone;
- 419 (Z) Testosterone; and
- 420 (AA) Trenbolone.

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

424 (d) Schedule IV:

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

428 (ii) Unless specifically excepted or unless listed in another schedule, any material,

429 compound, mixture, or preparation which contains any quantity of the following substances,
430 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and
431 salts of isomers is possible within the specific chemical designation:

- 432 (A) Alprazolam;
- 433 (B) Barbitol;
- 434 (C) Bromazepam;
- 435 (D) Butorphanol;
- 436 (E) Camazepam;
- 437 (F) Chloral betaine;
- 438 (G) Chloral hydrate;
- 439 (H) Chlordiazepoxide;
- 440 (I) Clobazam;
- 441 (J) Clonazepam;
- 442 (K) Clorazepate;
- 443 (L) Clotiazepam;
- 444 (M) Cloxazolam;
- 445 (N) Delorazepam;
- 446 (O) Diazepam;
- 447 (P) Dichloralphenazone;
- 448 [~~(P)~~] (Q) Estazolam;
- 449 [~~(Q)~~] (R) Ethchlorvynol;
- 450 [~~(R)~~] (S) Ethinamate;
- 451 [~~(S)~~] (T) Ethyl loflazepate;
- 452 [~~(T)~~] (U) Fludiazepam;
- 453 [~~(U)~~] (V) Flunitrazepam;
- 454 [~~(V)~~] (W) Flurazepam;
- 455 [~~(W)~~] (X) Halazepam;
- 456 [~~(X)~~] (Y) Haloxazolam;
- 457 [~~(Y)~~] (Z) Ketazolam;
- 458 [~~(Z)~~] (AA) Loprazolam;
- 459 [~~(AA)~~] (BB) Lorazepam;

- 460 [~~BB~~] (CC) Lormetazepam;
461 [~~CC~~] (DD) Mebutamate;
462 [~~DD~~] (EE) Medazepam;
463 [~~EE~~] (FF) Meprobamate;
464 [~~FF~~] (GG) Methohexital;
465 [~~GG~~] (HH) Methylphenobarbital (mephobarbital);
466 [~~HH~~] (II) Midazolam;
467 [~~II~~] (JJ) Nimetazepam;
468 [~~JJ~~] (KK) Nitrazepam;
469 [~~KK~~] (LL) Nordiazepam;
470 [~~LL~~] (MM) Oxazepam;
471 [~~MM~~] (NN) Oxazolam;
472 [~~NN~~] (OO) Paraldehyde;
473 [~~OO~~] (PP) Pentazocine;
474 [~~PP~~] (QQ) Petrichloral;
475 [~~QQ~~] (RR) Phenobarbital;
476 [~~RR~~] (SS) Pinazepam;
477 [~~SS~~] (TT) Prazepam;
478 [~~TT~~] (UU) Quazepam;
479 [~~UU~~] (VV) Temazepam;
480 [~~VV~~] (WW) Tetrazepam;
481 [~~WW~~] (XX) Triazolam;
482 [~~XX~~] (YY) Zaleplon; and
483 [~~YY~~] (ZZ) Zolpidem.
484 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains
485 any quantity of the following substances, including its salts, isomers whether optical, position,
486 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
487 isomers is possible.
488 (iv) Unless specifically excepted or unless listed in another schedule, any material,
489 compound, mixture, or preparation which contains any quantity of the following substances
490 having a stimulant effect on the central nervous system, including its salts, isomers whether

491 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
492 isomers, and salts of isomers is possible within the specific chemical designation:

493 (A) Cathine ((+)-norpseudoephedrine);

494 (B) Diethylpropion;

495 (C) Fencamfamine;

496 (D) Fenproporex;

497 (E) Mazindol;

498 (F) Mefenorex;

499 (G) Modafinil;

500 (H) Pemoline, including organometallic complexes and chelates thereof;

501 (I) Phentermine;

502 (J) Pipradrol;

503 (K) Sibutramine; and

504 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

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

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

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

514 (ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100
515 grams;

516 (iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100
517 grams;

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

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

521 (vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of

522 atropine sulfate per dosage unit; and

523 (vii) unless specifically exempted or excluded or unless listed in another schedule, any
524 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant
525 effect on the central nervous system, including its salts, isomers, and salts of isomers[~~;~~and].

526 [~~(viii) unless specifically exempted or unless listed in another schedule, any material,
527 compound, mixture, or preparation containing any Buprenorphine and its salts.]~~

528 Section 2. Section **58-37-5.5** is amended to read:

529 **58-37-5.5. Recognized controlled substance analogs.**

530 (1) A substance listed under Subsection (2) is an analog, as defined in Subsection
531 58-37-2(1)(f), if the substance, in any quantity, and in any material, compound, mixture, or
532 preparation, is present in:

533 (a) any product manufactured, distributed, or possessed for the purpose of human
534 consumption; or

535 (b) any product, the use or administration of which results in human consumption.

536 (2) Substances referred to in Subsection (1) include, but are not limited to:

537 (a) gamma butyrolactone (GBL);

538 (b) butyrolactone;

539 (c) 1,2 butanolide;

540 (d) 2-oxanolone;

541 (e) tetrahydro-2-furanone;

542 (f) dihydro-2 (3H)-furanone;

543 (g) tetramethylene glycol; [and]

544 (h) 1,4 butanediol[~~;~~]; and

545 (i) gamma valerolactone.

546 Section 3. Section **58-37-6** is amended to read:

547 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
548 **conduct research -- Issuance by department -- Denial, suspension, or revocation --**
549 **Records required -- Prescriptions.**

550 (1) (a) The department may adopt rules relating to the licensing and control of the
551 manufacture, distribution, production, prescription, administration, dispensing, conducting of
552 research with, and performing of laboratory analysis upon controlled substances within this

553 state.

554 (b) The department may assess reasonable fees to defray the cost of issuing original
555 and renewal licenses under this chapter pursuant to Section 63-38-3.2.

556 (c) The director of the department may delegate to any division or agency within the
557 department, authority to perform the responsibilities and functions prescribed to the department
558 under this chapter if the delegated authority is consistent with the function of the division or
559 agency provided by law.

560 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,
561 administers, conducts research with, or performs laboratory analysis upon any controlled
562 substance in Schedules II through V within this state, or who proposes to engage in
563 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting
564 research with, or performing laboratory analysis upon controlled substances included in
565 Schedules II through V within this state shall obtain a license issued by the department.

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

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

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

576 (i) an agent or employee, except a sales representative, of any registered manufacturer,
577 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
578 usual course of his business or employment; however, nothing in this subsection shall be
579 interpreted to permit an agent, employee, sales representative, or detail man to maintain an
580 inventory of controlled substances separate from the location of his employer's registered and
581 licensed place of business;

582 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
583 warehouseman, who possesses any controlled substance in the usual course of his business or

584 employment; and

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

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

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

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

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

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

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

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

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

609 (v) established effective controls against diversion; and

610 (vi) complied with any other factors that the department establishes that promote the
611 public health and safety.

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

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

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

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

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

629 (v) Practitioners registered under federal law to conduct research in Schedule I
630 substances may conduct research in Schedule I substances within this state upon furnishing the
631 department evidence of federal registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

667 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and
668 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,
669 except where the department is designated by law to perform those functions, or, when not
670 designated by law, is designated by the executive director of the Department of Commerce to
671 conduct the proceedings.

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

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

677 jurisdiction.

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

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

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

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

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

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

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

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

701 (7) (a) A person may not write or authorize a prescription for a controlled substance
702 unless he is:

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

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

707 (b) A person other than a pharmacist licensed under the laws of this state, or his

708 licensed intern, as required by Section 58-17a-302, may not dispense a controlled substance.

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

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

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

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

718 (d) Except for emergency situations designated by the department, a person may not
719 issue, fill, compound, or dispense a prescription for a controlled substance unless the
720 prescription is signed in ink or indelible pencil by the prescriber and contains the following
721 information:

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

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

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

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

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

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

732 (i) (A) A prescription for a Schedule II substance may not be refilled [~~only upon the~~
733 ~~written prescription of an authorized practitioner, and a prescription for a~~].

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

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

739 practitioner.

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

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

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

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

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

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

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

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

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

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

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

769 (iii) entered upon the record of the patient, the record is signed by the prescriber

770 affirming his authorization of the order within 48 hours after filling or administering the order,
771 and the patient's record reflects the quantity actually administered; and

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

776 (h) A practitioner licensed under this chapter may not prescribe, administer, or
777 dispense a controlled substance to a minor, without first obtaining the consent required in
778 Section 78-14-5 of a parent, guardian, or person standing in loco parentis of the minor except
779 in cases of an emergency. For purposes of this Subsection (7)(h), "minor" has the same
780 meaning as defined in Section 78-3a-103, and "emergency" means any physical condition
781 requiring the administration of a controlled substance for immediate relief of pain or suffering.

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

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

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

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

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

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

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

801 chapter.

802 (8) (a) (i) Any person licensed under this chapter who is found by the department to
803 have violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a [~~fine~~
804 penalty] not to exceed \$5,000. The department shall determine the procedure for adjudication
805 of any violations in accordance with Sections 58-1-106 and 58-1-108.

806 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the
807 General Fund as a ~~h~~ [nonlapsing] ~~h~~ dedicated credit to be used by the division under Subsection
808 58-37-7.7(1).

809 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through
810 (7)(j) is:

- 811 (i) upon first conviction, guilty of a class B misdemeanor;
- 812 (ii) upon second conviction, guilty of a class A misdemeanor; and
- 813 (iii) on third or subsequent conviction, guilty of a third degree felony.

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

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

819 Section 4. Section **58-37-7.5** is amended to read:

820 **58-37-7.5. Controlled substance database -- Advisory committee -- Pharmacy**
821 **reporting requirements -- Access -- Penalties.**

822 (1) As used in this section:

823 (a) "Committee" means the Controlled Substance Database Advisory Committee
824 created in this section.

825 (b) "Database" means the controlled substance database created in this section.

826 (c) "Database manager" means the person responsible for operating the database, or his
827 designee.

828 (d) "Division" means the Division of Occupational and Professional Licensing created
829 in Section 58-1-103.

830 (e) "Drug outlet" has the same definition as in Section 58-17a-102.

831 (f) "Health care facility" has the same definition as in Section 26-21-2.

832 (2) (a) There is created within the division a controlled substance database.

833 (b) The division shall administer and direct the functioning of the database in
834 accordance with this section. The division may under state procurement laws contract with
835 another state agency or private entity to establish, operate, or maintain the database. The
836 division in collaboration with the board shall determine whether to operate the database within
837 the division or contract with another entity to operate the database, based on an analysis of
838 costs and benefits.

839 (c) The purpose of the database is to contain data as described in this section regarding
840 every prescription for a controlled substance dispensed in the state to any person other than an
841 inpatient in a licensed health care facility.

842 (d) Data required by this section shall be submitted in compliance with this section to
843 the manager of the database by the pharmacist in charge of the drug outlet where the controlled
844 substance is dispensed.

845 (3) (a) There is created the Controlled Substance Database Advisory Committee. The
846 committee members are:

- 847 (i) two members representing the Utah Medical Association;
- 848 (ii) one member representing the Utah Dental Association;
- 849 (iii) two members representing the Utah Pharmaceutical Association;
- 850 (iv) one member representing the Department of Public Safety;
- 851 (v) one member representing the Utah Association of Chiefs of Police;
- 852 (vi) one member representing the Utah Sheriffs Association;
- 853 (vii) one member representing the state Office of the Attorney General;
- 854 (viii) one member representing the Statewide Association of Public Attorneys; and
- 855 (ix) three members representing the general public, and who are not health care
856 providers.

857 (b) The committee shall be appointed and serve in accordance with Section 58-1-201.

858 (c) The committee shall advise the division regarding:

- 859 (i) establishing, maintaining, and operating the database;
- 860 (ii) access to the database and how access is obtained; and
- 861 (iii) control of information contained in the database.

862 (4) The pharmacist in charge shall, regarding each controlled substance dispensed by a

863 pharmacist under his supervision other than those dispensed for an inpatient at a health care
864 facility, submit to the manager of the database the following information, by a procedure and in
865 a format established by the division:

- 866 (a) name of the prescribing practitioner;
- 867 (b) date of the prescription;
- 868 (c) date the prescription was filled;
- 869 (d) name of the person for whom the prescription was written;
- 870 (e) positive identification of the person receiving the prescription, including the type of
871 identification and any identifying numbers on the identification;
- 872 (f) name of the controlled substance;
- 873 (g) quantity of controlled substance prescribed;
- 874 (h) strength of controlled substance;
- 875 (i) quantity of controlled substance dispensed;
- 876 (j) dosage quantity and frequency as prescribed;
- 877 (k) name of drug outlet dispensing the controlled substance;
- 878 (l) name of pharmacist dispensing the controlled substance; and
- 879 (m) other relevant information as required by division rule.

880 (5) The division shall maintain the database in an electronic file or by other means
881 established by the division to facilitate use of the database for identification of:

- 882 (a) prescribing practices and patterns of prescribing and dispensing controlled
883 substances;
- 884 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
885 manner;
- 886 (c) individuals receiving prescriptions for controlled substances from licensed
887 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
888 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
889 that controlled substance; and
- 890 (d) individuals presenting forged or otherwise false or altered prescriptions for
891 controlled substances to a drug outlet.
- 892 (6) (a) The division shall by rule establish the electronic format in which the
893 information required under this section shall be submitted to the administrator of the database.

894 (b) The division shall ensure the database system records and maintains for reference:

895 (i) identification of each person who requests or receives information from the
896 database;

897 (ii) the information provided to each person; and

898 (iii) the date and time the information is requested or provided.

899 (7) The division shall make rules in collaboration with the committee to:

900 (a) effectively enforce the limitations on access to the database as described in
901 Subsection (8); and

902 (b) establish standards and procedures to ensure accurate identification of individuals
903 requesting information or receiving information without request from the database.

904 (8) The manager of the database shall make information in the database available only
905 to the following persons, and in accordance with the limitations stated and division rules:

906 (a) personnel of the division specifically assigned to conduct investigations related to
907 controlled substances laws under the jurisdiction of the division;

908 (b) authorized division personnel engaged in analysis of controlled substance
909 prescription information as a part of the assigned duties and responsibilities of their
910 employment;

911 (c) a licensed practitioner having authority to prescribe controlled substances, to the
912 extent the information relates specifically to a current patient of the practitioner, to whom the
913 practitioner is prescribing or considering prescribing any controlled substance;

914 (d) a licensed pharmacist having authority to dispense controlled substances to the
915 extent the information relates specifically to a current patient to whom that pharmacist is
916 dispensing or considering dispensing any controlled substance;

917 (e) federal, state, and local law enforcement authorities engaged as a specified duty of
918 their employment in enforcing laws regulating controlled substances; and

919 (f) an individual who is the recipient of a controlled substance prescription entered into
920 the database, upon providing evidence satisfactory to the database manager that the individual
921 requesting the information is in fact the person about whom the data entry was made.

922 (9) Any person who knowingly and intentionally releases any information in the
923 database in violation of the limitations under Subsection (8) is guilty of a third degree felony.

924 (10) Any person who obtains or attempts to obtain information from the database by

925 misrepresentation or fraud is guilty of a third degree felony.

926 (11) (a) A person may not knowingly and intentionally use, release, publish, or
927 otherwise make available to any other person or entity any information obtained from the
928 database for any purpose other than those specified in Subsection (8). Each separate violation
929 of this Subsection (11) is a third degree felony and is also subject to a civil penalty not to
930 exceed \$5,000.

931 (b) The procedure for determining a civil violation of this Subsection (11) shall be in
932 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

933 (c) Civil penalties assessed under this Subsection (11) shall be deposited in the General
934 Fund as a ~~h~~ [nonlapsing] ~~h~~ dedicated credit to be used by the division under Subsection
935 58-37-7.7(1).

936 (12) (a) The failure of a pharmacist in charge to submit information to the database as
937 required under this section after the division has submitted a specific written request for the
938 information or when the division determines the individual has a demonstrable pattern of
939 failing to submit the information as required is grounds for the division to take the following
940 actions in accordance with Section 58-1-401:

- 941 (i) refuse to issue a license to the individual;
942 (ii) refuse to renew the individual's license;
943 (iii) revoke, suspend, restrict, or place on probation the license;
944 (iv) issue a public or private reprimand to the individual;
945 (v) issue a cease and desist order; and
946 (vi) impose a civil penalty of not more than \$1,000 for each dispensed prescription
947 regarding which the required information is not submitted.

948 (b) Civil penalties assessed under Subsection (12)(a)(vi) shall be deposited in the
949 ~~[Commerce Service]~~ General Fund as a ~~h~~ [nonlapsing] ~~h~~ dedicated credit to be used by the division
950 under Subsection 58-37-7.7(1).

951 (c) The procedure for determining a civil violation of this Subsection (12) shall be in
952 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

953 (13) An individual who has submitted information to the database in accordance with
954 this section may not be held civilly liable for having submitted the information.

955 (14) All department and the division costs necessary to establish and operate the

956 database shall be funded by appropriations from:

- 957 (a) the Commerce Service Fund; and
- 958 (b) the General Fund.

959 (15) All costs associated with recording and submitting data as required in this section
960 shall be assumed by the submitting drug outlet.

961 Section 5. Section 58-37-7.7 is enacted to read:

962 **58-37-7.7. Use of dedicated credits -- Controlled Substance Databank -- Collection**
963 **of penalties.**

964 (1) The director may, with concurrence of the Controlled Substance ~~h~~ **[Databank]**

964a **DATABASE h**

965 Advisory Committee created in Section 58-37-7.5, use the monies deposited in the General
966 Fund as a h [nonlapsing] h dedicated credit under Subsections 58-37-6(8)(a), 58-37-7.5(11)(c), and
967 58-37-7.5(12)(b) h [~~and as appropriated by the Legislature,~~] h for the following purposes:

968 (a) maintenance and replacement of the h [databank] DATABASE h equipment, including
968a hardware and
969 software;

- 970 (b) training of staff; and
- 971 (c) pursuit of external grants and matching funds.

972 (2) The director of the division may collect any penalty imposed under Subsections
973 58-37-6(8)(a), 58-37-7.5(11)(c), and 58-37-7.5(12)(b) and which is not paid by:

- 974 (a) referring the matter to the Office of State Debt Collection or a collection agency; or
- 975 (b) bringing an action in the district court of the county in which the person owing the
976 debt resides or in the county where the office of the director is located.

977 (3) The director may seek legal assistance from the attorney general or the county or
978 district attorney of the district in which the action is brought to collect the fine.

979 (4) The court shall award reasonable attorney's fees and costs to the division for
980 successful collection actions under Subsection h [(3)] (2) h (b).

980a **h (5) ALL FUNDING OF THE CONTROLLED SUBSTANCE DATABASE AS DEFINED UNDER**
980b **SECTION 58-37-7.5 IS NONLAPSING. h**

981 Section 6. Section 58-37-8 is amended to read:

982 **58-37-8. Prohibited acts -- Penalties.**

983 (1) Prohibited acts A -- Penalties:

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

- 986 (i) produce, manufacture, or dispense, or to possess with intent to produce,

987 manufacture, or dispense, a controlled or counterfeit substance;

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

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

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

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

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

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

999 (i) a substance classified in Schedule I or II [~~or~~], a controlled substance analog, or
1000 gamma hydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and
1001 upon a second or subsequent conviction is guilty of a first degree felony;

1002 (ii) a substance classified in Schedule III or IV, or marijuana, is guilty of a third degree
1003 felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

1004 (iii) a substance classified in Schedule V is guilty of a class A misdemeanor and upon a
1005 second or subsequent conviction is guilty of a third degree felony.

1006 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
1007 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
1008 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his
1009 person or in his immediate possession during the commission or in furtherance of the offense,
1010 the court shall additionally sentence the person convicted for a term of one year to run
1011 consecutively and not concurrently; and the court may additionally sentence the person
1012 convicted for an indeterminate term not to exceed five years to run consecutively and not
1013 concurrently.

1014 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1015 felony punishable by imprisonment for an indeterminate term of not less than seven years and
1016 which may be for life. Imposition or execution of the sentence may not be suspended, and the
1017 person is not eligible for probation.

1018 (2) Prohibited acts B -- Penalties:

1019 (a) It is unlawful:

1020 (i) for any person knowingly and intentionally to possess or use a controlled substance
1021 analog or a controlled substance, unless it was obtained under a valid prescription or order,
1022 directly from a practitioner while acting in the course of his professional practice, or as
1023 otherwise authorized by this chapter;

1024 (ii) for any owner, tenant, licensee, or person in control of any building, room,
1025 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
1026 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
1027 any of those locations; or

1028 (iii) for any person knowingly and intentionally to possess an altered or forged
1029 prescription or written order for a controlled substance.

1030 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

1031 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1032 (ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16
1033 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree
1034 felony; or

1035 (iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of
1036 the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A
1037 misdemeanor.

1038 (c) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior
1039 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or
1040 any public jail or other place of confinement shall be sentenced to a penalty one degree greater
1041 than provided in Subsection (2)(b).

1042 (d) Upon a second or subsequent conviction of possession of any controlled substance
1043 by a person, that person shall be sentenced to a one degree greater penalty than provided in this
1044 Subsection (2).

1045 (e) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
1046 substances not included in Subsection (2)(b)(i), (ii), or (iii), including less than one ounce of
1047 marijuana, is guilty of a class B misdemeanor. Upon a second conviction the person is guilty
1048 of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a

1049 third degree felony.

1050 (f) Any person convicted of violating Subsection (2)(a)(ii) or (2)(a)(iii) is:

1051 (i) on a first conviction, guilty of a class B misdemeanor;

1052 (ii) on a second conviction, guilty of a class A misdemeanor; and

1053 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1054 (3) Prohibited acts C -- Penalties:

1055 (a) It is unlawful for any person knowingly and intentionally:

1056 (i) to use in the course of the manufacture or distribution of a controlled substance a
1057 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1058 purpose of obtaining a controlled substance, to assume the title of, or represent himself to be, a
1059 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1060 person;

1061 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1062 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
1063 be attempting to acquire or obtain possession of, or to procure the administration of any
1064 controlled substance by misrepresentation or failure by the person to disclose his receiving any
1065 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1066 prescription or written order for a controlled substance, or the use of a false name or address;

1067 (iii) to make any false or forged prescription or written order for a controlled substance,
1068 or to utter the same, or to alter any prescription or written order issued or written under the
1069 terms of this chapter; or

1070 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
1071 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1072 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1073 so as to render any drug a counterfeit controlled substance.

1074 (b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree
1075 felony.

1076 (4) Prohibited acts D -- Penalties:

1077 (a) Notwithstanding other provisions of this section, a person not authorized under this
1078 chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a,
1079 Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances

1080 Act, is upon conviction subject to the penalties and classifications under this Subsection
1081 (4)~~(b)~~ if the act is committed:

1082 (i) in a public or private elementary or secondary school or on the grounds of any of
1083 those schools;

1084 (ii) in a public or private vocational school or postsecondary institution or on the
1085 grounds of any of those schools or institutions;

1086 (iii) in those portions of any building, park, stadium, or other structure or grounds
1087 which are, at the time of the act, being used for an activity sponsored by or through a school or
1088 institution under Subsections (4)(a)(i) and (ii);

1089 (iv) in or on the grounds of a preschool or child-care facility;

1090 (v) in a public park, amusement park, arcade, or recreation center;

1091 (vi) in ~~[a church or synagogue]~~ or on the grounds of a house of worship as defined in
1092 Section 76-10-501;

1093 (vii) in a shopping mall, sports facility, stadium, arena, theater, movie house,
1094 playhouse, or parking lot or structure adjacent thereto;

1095 (viii) in a public parking lot or structure;

1096 (ix) within 1,000 feet of any structure, facility, or grounds included in Subsections
1097 (4)(a)(i) through (viii); or

1098 (x) in the immediate presence of a person younger than 18 years of age, regardless of
1099 where the act occurs.

1100 (b) A person convicted under this Subsection (4) is guilty of a first degree felony and
1101 shall be imprisoned for a term of not less than five years if the penalty that would otherwise
1102 have been established but for this subsection would have been a first degree felony. Imposition
1103 or execution of the sentence may not be suspended, and the person is not eligible for probation.

1104 (c) If the classification that would otherwise have been established would have been
1105 less than a first degree felony but for this Subsection (4), a person convicted under this
1106 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1107 offense.

1108 (d) It is not a defense to a prosecution under this Subsection (4) that the actor
1109 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
1110 was unaware of the individual's true age; nor that the actor mistakenly believed that the

1111 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
1112 the location where the act occurred was as described in Subsection (4)(a).

1113 (5) Any violation of this chapter for which no penalty is specified is a class B
1114 misdemeanor.

1115 (6) (a) Any penalty imposed for violation of this section is in addition to, and not in
1116 lieu of, any civil or administrative penalty or sanction authorized by law.

1117 (b) Where violation of this chapter violates a federal law or the law of another state,
1118 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1119 prosecution in this state.

1120 (7) In any prosecution for a violation of this chapter, evidence or proof which shows a
1121 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1122 substance or substances, is prima facie evidence that the person or persons did so with
1123 knowledge of the character of the substance or substances.

1124 (8) This section does not prohibit a veterinarian, in good faith and in the course of his
1125 professional practice only and not for humans, from prescribing, dispensing, or administering
1126 controlled substances or from causing the substances to be administered by an assistant or
1127 orderly under his direction and supervision.

1128 (9) Civil or criminal liability may not be imposed under this section on:

1129 (a) any person registered under the Controlled Substances Act who manufactures,
1130 distributes, or possesses an imitation controlled substance for use as a placebo or
1131 investigational new drug by a registered practitioner in the ordinary course of professional
1132 practice or research; or

1133 (b) any law enforcement officer acting in the course and legitimate scope of his
1134 employment.

1135 (10) If any provision of this chapter, or the application of any provision to any person
1136 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1137 invalid provision or application.