

1 **SCHEDULING OF CONTROLLED SUBSTANCES**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Paul Ray**

5 Senate Sponsor: D. Chris Buttars

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Health and Human Services Interim Committee recommended this bill.

10 **General Description:**

11 This bill modifies provisions regarding controlled substances by creating a committee
12 to advise the Legislature on the scheduling of substances.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ creates the Controlled Substances Advisory Committee;
- 16 ▶ establishes the membership of the committee;
- 17 ▶ creates the role of the committee as an advisory body regarding placing substances
18 in the statutory schedule of controlled substances, changing the schedule of a
19 substance, or removing a substance from the schedules; and
- 20 ▶ provides guidelines for determining if a substance should be scheduled and in which
21 schedule to place a substance.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 ENACTS:



- 28 **58-38a-101**, Utah Code Annotated 1953
- 29 **58-38a-102**, Utah Code Annotated 1953
- 30 **58-38a-201**, Utah Code Annotated 1953
- 31 **58-38a-202**, Utah Code Annotated 1953
- 32 **58-38a-203**, Utah Code Annotated 1953
- 33 **58-38a-204**, Utah Code Annotated 1953

34

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

36 Section 1. Section **58-38a-101** is enacted to read:

37 **CHAPTER 38a. CONTROLLED SUBSTANCES ADVISORY COMMITTEE ACT**

38 **Part 1. General Provisions**

39 **58-38a-101. Title.**

40 This chapter is referred to as the "Controlled Substances Advisory Committee Act."

41 Section 2. Section **58-38a-102** is enacted to read:

42 **58-38a-102. Definitions.**

43 (1) "Committee" means the Controlled Substances Advisory Committee created in this
44 chapter.

45 (2) "Controlled substance schedule" or "schedule" means a schedule as defined under
46 Section 58-37-4.

47 Section 3. Section **58-38a-201** is enacted to read:

48 **Part 2. Controlled Substances Advisory Committee**

49 **58-38a-201. Controlled Substances Advisory Committee.**

50 There is created within the Division of Occupational and Professional Licensing the
51 Controlled Substances Advisory Committee. The committee consists of:

52 (1) the director of the Department of Health or the director's designee;

53 (2) the State Medical Examiner or the examiner's designee;

54 (3) the commissioner of the Department of Public Safety or the commissioner's
55 designee;

56 (4) one physician who is a member of the Physicians Licensing Board and is
57 designated by that board;

58 (5) one pharmacist who is a member of the Utah State Board of Pharmacy and is

59 designated by that board;

60 (6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board
61 and is designated by that board;

62 (7) one physician who is currently licensed and practicing in the state, to be appointed
63 by the governor;

64 (8) one psychiatrist who is currently licensed and practicing in the state, to be
65 appointed by the governor;

66 (9) one individual with expertise in substance abuse addiction, to be appointed by the
67 governor;

68 (10) one representative from the Statewide Association of Prosecutors; and

69 (11) one ~~§~~ → [citizen of the state] naturopathic physician who is currently licensed and
69a practicing in the state ←§ , to be appointed by the governor.

70 Section 4. Section **58-38a-202** is enacted to read:

71 **58-38a-202. Terms of committee service.**

72 (1) (a) Members of the advisory committee shall serve terms of four years, except that
73 the members under Subsections 58-38a-201(1), (2), and (3) shall serve during their terms as
74 appointed officials.

75 (b) Vacancies in the committee occurring otherwise than by the expiration of a term
76 shall be filled for the unexpired term in the same manner as original appointments.

77 (2) A member may not receive compensation or benefits for the member's service, but
78 may receive per diem and travel expenses in accordance with:

79 (a) Section 63A-3-106;

80 (b) Section 63A-3-107; and

81 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
82 63A-3-107.

83 (3) (a) The director of the Department of Health, or the director's designee, is the chair
84 of the committee.

85 (b) The advisory committee meets at the call of the chair or at the call of a majority of
86 the committee members.

87 (c) The advisory committee meets annually and more often as required to carry out its
88 duties under this chapter.

89 (d) Six members of the advisory committee constitute a quorum.

90 (e) Action by the committee requires a majority vote of a quorum.

91 Section 5. Section **58-38a-203** is enacted to read:

92 **58-38a-203. Duties of the committee.**

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

95 (a) the movement of a controlled substance from one schedule to another;

96 (b) the removal of a controlled substance from any schedule; and

97 (c) the designation of a substance as a controlled substance and the placement of the
98 substance in a designated schedule.

99 (2) On or before September 30 of each year, the committee shall submit to the Health
100 and Human Services Interim Committee a written report:

101 (a) listing any substances recommended by the committee for scheduling, rescheduling,
102 or deletion from the schedules by the Legislature; and

103 (b) stating the reasons for the recommendation.

104 (3) In advising the Legislature regarding the need to add, delete, or reschedule a
105 substance, the committee shall consider:

106 (a) the actual or probable abuse of the substance, including:

107 (i) the history and current pattern of abuse both in Utah and in other states;

108 (ii) the scope, duration, and significance of abuse;

109 (iii) the degree of actual or probable detriment to public health which may result from
110 abuse of the substance;

111 (iv) the probable physical and social impact of widespread abuse of the substance;

112 (b) the biomedical hazard of the substance, including:

113 (i) its pharmacology, including the effects and modifiers of the effects of the substance;

114 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,

115 whether controlled or not, and the degree to which it may cause psychological or physiological
116 dependence; and

117 (iii) the risk to public health and the particular susceptibility of segments of the
118 population;

119 (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of
120 a substance that is currently a controlled substance;

121 (d) the current state of scientific knowledge regarding the substance, including whether
122 there is any acceptable means to safely use the substance under medical supervision;

123 (e) the relationship between the use of the substance and criminal activity, including
124 whether:

125 (i) persons engaged in illicit trafficking of the substance are also engaged in other
126 criminal activity;

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

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

131 (iv) addiction to the substance relates to the commission of crimes to facilitate the
132 continued use of the substance;

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

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

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

138 Section 6. Section **58-38a-204** is enacted to read:

139 **58-38a-204. Guidelines for scheduling drugs.**

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

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

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

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

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

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

151 (ii) the substance has a currently accepted medical use in treatment in the United

152 States, or a currently accepted medical use subject to severe restrictions; and

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

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

157 (3) (a) The committee shall recommend placement of a substance in Schedule III if it
158 finds that:

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

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

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

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

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

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

170 (ii) the substance has currently accepted medical use in treatment in the United States;
171 and

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

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

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

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

180 (ii) the substance has currently accepted medical use in treatment in the United States;
181 and

182 (iii) the substance has limited physiological dependence or psychological dependence

183 liability relative to the controlled substances listed in Schedule IV.

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

Legislative Review Note
as of 11-19-09 9:35 AM

Office of Legislative Research and General Counsel

H.B. 38 - Scheduling of Controlled Substances

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will require an additional appropriation from the Commerce Service Fund of \$1,800 annually. Commerce Service Fund spending affects the annual transfer to the General Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$1,800)	(\$1,800)
Commerce Service Fund	\$0	\$1,800	\$1,800	\$0	\$0	\$0
Total	\$0	\$1,800	\$1,800	\$0	(\$1,800)	(\$1,800)

Individual, Business and/or Local Impact

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