

CONTROLLED SUBSTANCE MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Controlled Substances Act by creating a controlled class of listed synthetic cannabinoid substances found in products often referred to as "spice."

Highlighted Provisions:

This bill:

- ▶ expands the definition of a controlled substance to include a list of synthetic equivalent cannabinoid substances and their analogs and homologs found in products commonly referred to as "spice";
- ▶ expands the definition of a controlled substance to include substances and their analogs and homologs found in products referred to as "bath salts";
- ▶ clarifies that the tetrahydrocannabinols in Schedule I of the Utah Controlled Substances Act include those both naturally and synthetically derived;
- ▶ provides that it is an affirmative defense that the person produced, possessed, or administered any of these listed substances if the person:
 - was engaged in medical research; and

- 32 • was a holder of a license to possess controlled substances for research;
- 33 ▶ authorizes the Controlled Substances Advisory Committee to recommend
- 34 placement of a substance on a controlled substance list if it finds that the substance
- 35 has a potential for abuse and that an accepted standard has not been established for
- 36 safe use in treatment for medical purposes;
- 37 ▶ adds "spice" to the driver license provisions regarding driving under the influence;
- 38 and
- 39 ▶ provides that a legislative body of a political subdivision may not enact an
- 40 ordinance that is less restrictive than any provision of the Utah Controlled
- 41 Substances Act.

42 **Money Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 This bill provides an effective date.

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **41-6a-517**, as last amended by Laws of Utah 2009, Chapter 390

49 **58-37-2 (Superseded 07/01/11)**, as last amended by Laws of Utah 2010, Chapters 64

50 and 101

51 **58-37-2 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapters 64, 101,

52 and 276

53 **58-37-3**, as last amended by Laws of Utah 1997, Chapter 64

54 **58-37-4**, as last amended by Laws of Utah 2010, Chapter 106

55 **58-37-6**, as last amended by Laws of Utah 2010, Chapter 287

56 **58-37-8**, as last amended by Laws of Utah 2010, Chapter 64

57 **58-38a-203**, as enacted by Laws of Utah 2010, Chapter 231

58 **58-38a-204**, as enacted by Laws of Utah 2010, Chapter 231

59 ENACTS:

60 **58-37-4.2**, Utah Code Annotated 1953

61

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

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

64 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
65 **body -- Penalties -- Arrest without warrant.**

66 (1) As used in this section:

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

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

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

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

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

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

77 (a) involuntarily ingested by the accused;

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

79 (c) otherwise legally ingested.

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

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

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

- 88 (6) The Driver License Division shall:
- 89 (a) if the person is 21 years of age or older on the date of arrest:
- 90 (i) suspend, for a period of 120 days, the driver license of a person convicted under
- 91 Subsection (2) of an offense committed on or after July 1, 2009; or
- 92 (ii) revoke, for a period of two years, the driver license of a person if:
- 93 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- 94 (B) the current violation under Subsection (2) is committed:
- 95 (I) within a period of 10 years after the date of the prior violation; and
- 96 (II) on or after July 1, 2009;
- 97 (b) if the person is under 21 years of age on the date of arrest:
- 98 (i) suspend, until the person is 21 years of age or for a period of 120 days, the driver
- 99 license of a person convicted under Subsection (2) of an offense committed on or after July 1,
- 100 2009; or
- 101 (ii) revoke, until the person is 21 years of age or for a period of two years, the driver
- 102 license of a person if:
- 103 (A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- 104 (B) the current violation under Subsection (2) is committed:
- 105 (I) within a period of 10 years after the date of the prior violation; and
- 106 (II) on or after July 1, 2009;
- 107 (c) subtract from any suspension or revocation period the number of days for which a
- 108 license was previously suspended under Section 53-3-223 or 53-3-231, if the previous
- 109 suspension was based on the same occurrence upon which the record of conviction is based;
- 110 and
- 111 (d) deny, suspend, or revoke a person's license for the denial and suspension periods in
- 112 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
- 113 committed prior to July 1, 2009.
- 114 (7) (a) The court shall notify the Driver License Division if a person fails to:
- 115 (i) complete all court ordered screening and assessment, educational series, and

116 substance abuse treatment; or

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

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

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

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

123 **58-37-2 (Superseded 07/01/11). Definitions.**

124 (1) As used in this chapter:

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

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

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

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

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

138 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
139 partnership, corporation, business trust, association, or other legal entity, and any union or
140 groups of individuals associated in fact although not a legal entity, and includes illicit as well
141 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
142 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
143 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled

144 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
145 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
146 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
147 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
148 unlawful conduct and be related either to each other or to the enterprise.

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

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

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

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

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

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

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

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

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

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

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

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

170 (g) (i) "Controlled substance analog" means a substance the chemical structure of
171 which is substantially similar to the chemical structure of a controlled substance listed in

172 Schedules I and II of Section 58-37-4, or in Schedules I and II of the federal Controlled
173 Substances Act, Title II, P.L. 91-513, or listed in Section 58-37-4.2:

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

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

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

183 (A) a controlled substance currently scheduled in Schedules I through V of Section
184 58-37-4 or listed in Section 58-37-4.2;

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

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

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

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

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

199 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or

200 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,
201 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state
202 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,
203 37c, or 37d.

204 (i) "Counterfeit substance" means:

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

206 (A) without authorization bears the trademark, trade name, or other identifying mark,
207 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
208 other than the person or persons who in fact manufactured, distributed, or dispensed the
209 substance which falsely purports to be a controlled substance distributed by any other
210 manufacturer, distributor, or dispenser; and

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

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

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

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

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

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

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

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

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

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

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

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

231 (iii) lysergic acid diethylamide; or

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

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

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

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

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

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

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

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

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

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

255 (D) substances intended for use as a component of any substance specified in

256 Subsections (1)(r)(i)(A), (B), and (C)[~~and (D)~~].

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

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

262 (t) "Food" means:

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

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

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

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

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

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

283 (ii) which is practiced by Indians.

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

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

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

295 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
296 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every
297 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
298 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,
299 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
300 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
301 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
302 synthetic equivalents of the substances contained in the plant cannabis sativa or any other
303 species of the genus cannabis which are chemically indistinguishable and pharmacologically
304 active are also included.

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

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

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

311 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or

312 opiates;

313 (iii) opium poppy and poppy straw; or

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

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

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

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

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

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

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

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

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

346 (i) orally or in writing; or

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

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

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

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

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

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

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

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

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

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

365 **58-37-2 (Effective 07/01/11). Definitions.**

366 (1) As used in this chapter:

367 (a) "Administer" means the direct application of a controlled substance, whether by

368 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
369 by:

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

371 or

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

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

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

380 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
381 partnership, corporation, business trust, association, or other legal entity, and any union or
382 groups of individuals associated in fact although not a legal entity, and includes illicit as well
383 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
384 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
385 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
386 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
387 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
388 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
389 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
390 unlawful conduct and be related either to each other or to the enterprise.

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

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

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

395 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,

396 Title II, P.L. 91-513; ~~or~~

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

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

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

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

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

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

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

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

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

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

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

- 424 (ii) "Controlled substance analog" does not include:
- 425 (A) a controlled substance currently scheduled in Schedules I through V of Section
- 426 58-37-4;
- 427 (B) a substance for which there is an approved new drug application;
- 428 (C) a substance with respect to which an exemption is in effect for investigational use
- 429 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
- 430 to the extent the conduct with respect to the substance is permitted by the exemption;
- 431 (D) any substance to the extent not intended for human consumption before an
- 432 exemption takes effect with respect to the substance;
- 433 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
- 434 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
- 435 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
- 436 transferred, or furnished as an over-the-counter medication without prescription; or
- 437 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
- 438 including concentrates or extracts, which are not otherwise regulated by law, which may
- 439 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
- 440 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 441 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or
- 442 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,
- 443 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state
- 444 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,
- 445 37c, or 37d.
- 446 (i) "Counterfeit substance" means:
- 447 (i) any controlled substance or container or labeling of any controlled substance that:
- 448 (A) without authorization bears the trademark, trade name, or other identifying mark,
- 449 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
- 450 other than the person or persons who in fact manufactured, distributed, or dispensed the
- 451 substance which falsely purports to be a controlled substance distributed by any other

452 manufacturer, distributor, or dispenser; and

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

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

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

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

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

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

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

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

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

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

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

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

473 (iii) lysergic acid diethylamide; or

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

478 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
479 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes

480 distributing to, leaving with, giving away, or disposing of that substance as well as the
481 packaging, labeling, or compounding necessary to prepare the substance for delivery.

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

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

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

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

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

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

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

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

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

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

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

504 (t) "Food" means:

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

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

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

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

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

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

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

525 (ii) which is practiced by Indians.

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

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

534 (z) "Manufacturer" includes any person who packages, repackages, or labels any
535 container of any controlled substance, except pharmacists who dispense or compound

536 prescription orders for delivery to the ultimate consumer.

537 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
538 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every
539 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
540 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,
541 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
542 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
543 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
544 synthetic equivalents of the substances contained in the plant cannabis sativa or any other
545 species of the genus cannabis which are chemically indistinguishable and pharmacologically
546 active are also included.

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

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

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

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

555 (iii) opium poppy and poppy straw; or

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

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

563 (ee) "Opiate" means any drug or other substance having an addiction-forming or

564 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
565 having addiction-forming or addiction-sustaining liability.

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

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

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

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

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

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

588 (i) orally or in writing; or

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

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

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

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

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

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

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

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

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

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

607 **58-37-3. Controlled substances.**

608 (1) All substances listed in Section 58-37-4 or 58-37-4.2 are [~~considered~~] controlled.

609 (2) All substances listed in the federal Controlled Substances Act, Title II, P.L. 91-513,
610 are [~~considered~~] controlled.

611 Section 5. Section **58-37-4** is amended to read:

612 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**
613 **required -- Specific substances included in schedules.**

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

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

618 (a) Schedule I:

619 (i) Unless specifically excepted or unless listed in another schedule, any of the

620 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
621 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
622 chemical designation:

623 (A) Acetyl-alpha-methylfentanyl

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

625 (B) Acetylmethadol;

626 (C) Allylprodine;

627 (D) Alphacetylmethadol, except levo-alphacetylmethadol also known as

628 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

629 (E) Alphameprodine;

630 (F) Alphamethadol;

631 (G) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]

632 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

633 (H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-

634 piperidinyl]-N-phenylpropanamide);

635 (I) Benzethidine;

636 (J) Betacetylmethadol;

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

638 piperidinyl]-N-phenylpropanamide);

639 (L) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-

640 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

641 (M) Betameprodine;

642 (N) Betamethadol;

643 (O) Betaprodine;

644 (P) Clonitazene;

645 (Q) Dextromoramide;

646 (R) Diampromide;

647 (S) Diethylthiambutene;

- 648 (T) DifenoXin;
- 649 (U) Dimenoxadol;
- 650 (V) Dimepheptanol;
- 651 (W) Dimethylthiambutene;
- 652 (X) Dioxaphetyl butyrate;
- 653 (Y) Dipipanone;
- 654 (Z) Ethylmethylthiambutene;
- 655 (AA) Etonitazene;
- 656 (BB) EtoXeridine;
- 657 (CC) Furethidine;
- 658 (DD) Hydroxypethidine;
- 659 (EE) Ketobemidone;
- 660 (FF) Levomoramide;
- 661 (GG) Levophenacymorphan;
- 662 (HH) Morpheridine;
- 663 (II) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 664 (JJ) Noracymethadol;
- 665 (KK) Norlevorphanol;
- 666 (LL) Normethadone;
- 667 (MM) Norpipanone;
- 668 (NN) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]
- 669 propanamide;
- 670 (OO) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 671 (PP) Phenadoxone;
- 672 (QQ) Phenampromide;
- 673 (RR) Phenomorphan;
- 674 (SS) Phenoperidine;
- 675 (TT) Piritramide;

- 676 (UU) Proheptazine;
- 677 (VV) Properidine;
- 678 (WW) Propiram;
- 679 (XX) Racemoramide;
- 680 (YY) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
- 681 (ZZ) Tilidine;
- 682 (AAA) Trimeperidine;
- 683 (BBB) 3-methylfentanyl, including the optical and geometric isomers
- 684 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide); and
- 685 (CCC) 3-methylthiofentanyl
- 686 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
- 687 (ii) Unless specifically excepted or unless listed in another schedule, any of the
- 688 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
- 689 salts, isomers, and salts of isomers is possible within the specific chemical designation:
- 690 (A) Acetorphine;
- 691 (B) Acetyldihydrocodeine;
- 692 (C) Benzylmorphine;
- 693 (D) Codeine methylbromide;
- 694 (E) Codeine-N-Oxide;
- 695 (F) Cyprenorphine;
- 696 (G) Desomorphine;
- 697 (H) Dihydromorphine;
- 698 (I) Drotebanol;
- 699 (J) Etorphine (except hydrochloride salt);
- 700 (K) Heroin;
- 701 (L) Hydromorphinol;
- 702 (M) Methyldesorphine;
- 703 (N) Methylhydromorphine;

- 704 (O) Morphine methylbromide;
- 705 (P) Morphine methylsulfonate;
- 706 (Q) Morphine-N-Oxide;
- 707 (R) Myrophine;
- 708 (S) Nicocodeine;
- 709 (T) Nicomorphine;
- 710 (U) Normorphine;
- 711 (V) Pholcodine; and
- 712 (W) Thebacon.
- 713 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 714 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
- 715 substances, or which contains any of their salts, isomers, and salts of isomers when the
- 716 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
- 717 designation; as used in this Subsection (2)(iii) only, "isomer" includes the optical, position, and
- 718 geometric isomers:
- 719 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
- 720 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;
- 721 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:
- 722 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- 723 (C) 4-bromo-2,5-dimethoxypenethylamine, some trade or other names:
- 724 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 725 (D) 2,5-dimethoxyamphetamine, some trade or other names:
- 726 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 727 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- 728 (F) 4-methoxyamphetamine, some trade or other names:
- 729 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- 730 (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- 731 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:

- 732 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
- 733 (I) 3,4-methylenedioxy amphetamine;
- 734 (J) 3,4-methylenedioxymethamphetamine (MDMA);
- 735 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
- 736 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- 737 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
- 738 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
- 739 (M) 3,4,5-trimethoxy amphetamine;
- 740 (N) Bufotenine, some trade and other names:
- 741 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
- 742 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- 743 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- 744 (P) Dimethyltryptamine, some trade or other names: DMT;
- 745 (Q) Ibogaine, some trade and other names:
- 746 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
- 747 [5,4-b] indole; Tabernanthe iboga;
- 748 (R) Lysergic acid diethylamide;
- 749 (S) Marijuana;
- 750 (T) Mescaline;
- 751 (U) Parahexyl, some trade or other names:
- 752 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- 753 (V) Peyote, meaning all parts of the plant presently classified botanically as
- 754 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
- 755 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
- 756 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
- 757 (W) N-ethyl-3-piperidyl benzilate;
- 758 (X) N-methyl-3-piperidyl benzilate;
- 759 (Y) Psilocybin;

- 760 (Z) Psilocyn;
- 761 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis
762 (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis
763 plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives,
764 and their isomers with similar chemical structure and pharmacological activity to those
765 substances contained in the plant, such as the following: Δ 1 cis or trans tetrahydrocannabinol,
766 and their optical isomers Δ 6 cis or trans tetrahydrocannabinol, and their optical isomers Δ 3,4
767 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these
768 substances is not internationally standardized, compounds of these structures, regardless of
769 numerical designation of atomic positions covered;
- 770 (BB) Ethylamine analog of phencyclidine, some trade or other names:
771 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
772 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
- 773 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:
774 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
- 775 (DD) Thiophene analog of phencyclidine, some trade or other names:
776 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TCP, TCP; and
777 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.
- 778 (iv) Unless specifically excepted or unless listed in another schedule, any material
779 compound, mixture, or preparation which contains any quantity of the following substances
780 having a depressant effect on the central nervous system, including its salts, isomers, and salts
781 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
782 specific chemical designation:
- 783 (A) Mecloqualone; and
784 (B) Methaqualone.
- 785 (v) Any material, compound, mixture, or preparation containing any quantity of the
786 following substances having a stimulant effect on the central nervous system, including their
787 salts, isomers, and salts of isomers:

- 788 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
789 4,5-dihydro-5-phenyl-2-oxazolamine;
- 790 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,
791 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
- 792 (C) Fenethylamine;
- 793 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;
794 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one;
795 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
796 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
797 optical isomers;
- 798 (E) (±)cis-4-methylaminorex ((±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 799 (F) N-ethylamphetamine; and
- 800 (G) N,N-dimethylamphetamine, also known as
801 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.
- 802 (vi) Any material, compound, mixture, or preparation which contains any quantity of
803 the following substances, including their optical isomers, salts, and salts of isomers, subject to
804 temporary emergency scheduling:
- 805 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
806 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).
- 807 (vii) Unless specifically excepted or unless listed in another schedule, any material,
808 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
809 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.
- 810 (b) Schedule II:
- 811 (i) Unless specifically excepted or unless listed in another schedule, any of the
812 following substances whether produced directly or indirectly by extraction from substances of
813 vegetable origin, or independently by means of chemical synthesis, or by a combination of
814 extraction and chemical synthesis:
- 815 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or

816 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
817 and their respective salts, but including:

818 (I) Raw opium;

819 (II) Opium extracts;

820 (III) Opium fluid;

821 (IV) Powdered opium;

822 (V) Granulated opium;

823 (VI) Tincture of opium;

824 (VII) Codeine;

825 (VIII) Ethylmorphine;

826 (IX) Etorphine hydrochloride;

827 (X) Hydrocodone;

828 (XI) Hydromorphone;

829 (XII) Metopon;

830 (XIII) Morphine;

831 (XIV) Oxycodone;

832 (XV) Oxymorphone; and

833 (XVI) Thebaine;

834 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or
835 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
836 substances may not include the isoquinoline alkaloids of opium;

837 (C) Opium poppy and poppy straw;

838 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
839 any salt, compound, derivative, or preparation which is chemically equivalent or identical with
840 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
841 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
842 produced, except the substances may not include decocainized coca leaves or extraction of coca
843 leaves, which extractions do not contain cocaine or ecgonine; and

844 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
845 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

846 (ii) Unless specifically excepted or unless listed in another schedule, any of the
847 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
848 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
849 chemical designation, except dextrorphan and levopropoxyphene:

850 (A) Alfentanil;

851 (B) Alphaprodine;

852 (C) Anileridine;

853 (D) Bezitramide;

854 (E) Bulk dextropropoxyphene (nondosage forms);

855 (F) Carfentanil;

856 (G) Dihydrocodeine;

857 (H) Diphenoxylate;

858 (I) Fentanyl;

859 (J) Isomethadone;

860 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
861 levomethadyl acetate, or LAAM;

862 (L) Levomethorphan;

863 (M) Levorphanol;

864 (N) Metazocine;

865 (O) Methadone;

866 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

867 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
868 acid;

869 (R) Pethidine (meperidine);

870 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

871 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

- 872 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 873 (V) Phenazocine;
- 874 (W) Piminodine;
- 875 (X) Racemethorphan;
- 876 (Y) Racemorphan;
- 877 (Z) Remifentanyl; and
- 878 (AA) Sufentanyl.
- 879 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 880 compound, mixture, or preparation which contains any quantity of the following substances
- 881 having a stimulant effect on the central nervous system:
- 882 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 883 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- 884 (C) Phenmetrazine and its salts; and
- 885 (D) Methylphenidate.
- 886 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 887 compound, mixture, or preparation which contains any quantity of the following substances
- 888 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 889 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 890 specific chemical designation:
- 891 (A) Amobarbital;
- 892 (B) Glutethimide;
- 893 (C) Pentobarbital;
- 894 (D) Phencyclidine;
- 895 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and
- 896 1-piperidinocyclohexanecarbonitrile (PCC); and
- 897 (F) Secobarbital.
- 898 (v) (A) Unless specifically excepted or unless listed in another schedule, any material,
- 899 compound, mixture, or preparation which contains any quantity of Phenylacetone.

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

902 (vi) Nabilone, another name for nabilone:
903 (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
904 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

905 (c) Schedule III:

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

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

917 (B) Benzphetamine;

918 (C) Chlorphentermine;

919 (D) Clortermine; and

920 (E) Phendimetrazine.

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

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

927 (B) Any suppository dosage form containing amobarbital, secobarbital, or

- 928 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug
929 Administration for marketing only as a suppository;
- 930 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
931 salt of any of them;
- 932 (D) Chlorhexadol;
- 933 (E) Buprenorphine;
- 934 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,
935 isomers, and salts of isomers, for which an application is approved under the federal Food,
936 Drug, and Cosmetic Act, Section 505;
- 937 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:
938 \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- 939 (H) Lysergic acid;
- 940 (I) Lysergic acid amide;
- 941 (J) Methyprylon;
- 942 (K) Sulfondiethylmethane;
- 943 (L) Sulfonethylmethane;
- 944 (M) Sulfonmethane; and
- 945 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a
946 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:
947 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:
948 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,
949 flupyrazapon.
- 950 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
951 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
952 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
953 (-)-delta-9-(trans)-tetrahydrocannabinol.
- 954 (iv) Nalorphine.
- 955 (v) Unless specifically excepted or unless listed in another schedule, any material,

956 compound, mixture, or preparation containing limited quantities of any of the following
957 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

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

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

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

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

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

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

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

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

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

- 984 (A) Boldenone;
- 985 (B) Chlorotestosterone (4-chlortestosterone);
- 986 (C) Clostebol;
- 987 (D) Dehydrochlormethyltestosterone;
- 988 (E) Dihydrotestosterone (4-dihydrotestosterone);
- 989 (F) Drostanolone;
- 990 (G) Ethylestrenol;
- 991 (H) Fluoxymesterone;
- 992 (I) Formebolone (formebolone);
- 993 (J) Mesterolone;
- 994 (K) Methandienone;
- 995 (L) Methandranone;
- 996 (M) Methandriol;
- 997 (N) Methandrostenolone;
- 998 (O) Methenolone;
- 999 (P) Methyltestosterone;
- 1000 (Q) Mibolerone;
- 1001 (R) Nandrolone;
- 1002 (S) Norethandrolone;
- 1003 (T) Oxandrolone;
- 1004 (U) Oxymesterone;
- 1005 (V) Oxymetholone;
- 1006 (W) Stanolone;
- 1007 (X) Stanozolol;
- 1008 (Y) Testolactone;
- 1009 (Z) Testosterone; and
- 1010 (AA) Trenbolone.
- 1011 (vii) Anabolic steroids expressly intended for administration through implants to cattle

1012 or other nonhuman species, and approved by the Secretary of Health and Human Services for
1013 use, may not be classified as a controlled substance.

1014 (d) Schedule IV:

1015 (i) Unless specifically excepted or unless listed in another schedule, any material,
1016 compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not
1017 less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

1018 (ii) Unless specifically excepted or unless listed in another schedule, any material,
1019 compound, mixture, or preparation which contains any quantity of the following substances,
1020 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and
1021 salts of isomers is possible within the specific chemical designation:

1022 (A) Alprazolam;

1023 (B) Barbital;

1024 (C) Bromazepam;

1025 (D) Butorphanol;

1026 (E) Camazepam;

1027 (F) Carisoprodol;

1028 (G) Chloral betaine;

1029 (H) Chloral hydrate;

1030 (I) Chlordiazepoxide;

1031 (J) Clobazam;

1032 (K) Clonazepam;

1033 (L) Clorazepate;

1034 (M) Clotiazepam;

1035 (N) Cloxazolam;

1036 (O) Delorazepam;

1037 (P) Diazepam;

1038 (Q) Dichloralphenazone;

1039 (R) Estazolam;

- 1040 (S) Ethchlorvynol;
- 1041 (T) Ethinamate;
- 1042 (U) Ethyl loflazepate;
- 1043 (V) Fludiazepam;
- 1044 (W) Flunitrazepam;
- 1045 (X) Flurazepam;
- 1046 (Y) Halazepam;
- 1047 (Z) Haloxazolam;
- 1048 (AA) Ketazolam;
- 1049 (BB) Loprazolam;
- 1050 (CC) Lorazepam;
- 1051 (DD) Lormetazepam;
- 1052 (EE) Mebutamate;
- 1053 (FF) Medazepam;
- 1054 (GG) Meprobamate;
- 1055 (HH) Methohexital;
- 1056 (II) Methylphenobarbital (mephobarbital);
- 1057 (JJ) Midazolam;
- 1058 (KK) Nimetazepam;
- 1059 (LL) Nitrazepam;
- 1060 (MM) Nordiazepam;
- 1061 (NN) Oxazepam;
- 1062 (OO) Oxazolam;
- 1063 (PP) Paraldehyde;
- 1064 (QQ) Pentazocine;
- 1065 (RR) Petrichloral;
- 1066 (SS) Phenobarbital;
- 1067 (TT) Pinazepam;

- 1068 (UU) Prazepam;
- 1069 (VV) Quazepam;
- 1070 (WW) Temazepam;
- 1071 (XX) Tetrazepam;
- 1072 (YY) Triazolam;
- 1073 (ZZ) Zaleplon; and
- 1074 (AAA) Zolpidem.

1075 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains
1076 any quantity of the following substances, including its salts, isomers whether optical, position,
1077 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
1078 isomers is possible.

1079 (iv) Unless specifically excepted or unless listed in another schedule, any material,
1080 compound, mixture, or preparation which contains any quantity of the following substances
1081 having a stimulant effect on the central nervous system, including its salts, isomers whether
1082 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
1083 isomers, and salts of isomers is possible within the specific chemical designation:

- 1084 (A) Cathine ((+)-norpseudoephedrine);
- 1085 (B) Diethylpropion;
- 1086 (C) Fencamfamine;
- 1087 (D) Fenproporex;
- 1088 (E) Mazindol;
- 1089 (F) Mefenorex;
- 1090 (G) Modafinil;
- 1091 (H) Pemoline, including organometallic complexes and chelates thereof;
- 1092 (I) Phentermine;
- 1093 (J) Pipradrol;
- 1094 (K) Sibutramine; and
- 1095 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

1096 (v) Unless specifically excepted or unless listed in another schedule, any material,
1097 compound, mixture, or preparation which contains any quantity of dextropropoxyphene
1098 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

1099 (e) Schedule V: Any compound, mixture, or preparation containing any of the
1100 following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous
1101 base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in
1102 sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal
1103 qualities other than those possessed by the narcotic drug alone:

1104 (i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

1105 (ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100
1106 grams;

1107 (iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100
1108 grams;

1109 (iv) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of
1110 atropine sulfate per dosage unit;

1111 (v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

1112 (vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of
1113 atropine sulfate per dosage unit; and

1114 (vii) unless specifically exempted or excluded or unless listed in another schedule, any
1115 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant
1116 effect on the central nervous system, including its salts, isomers, and salts of isomers.

1117 Section 6. Section **58-37-4.2** is enacted to read:

1118 **58-37-4.2. Listed controlled substances.**

1119 The following substances, their analogs, homologs, and synthetic equivalents are listed
1120 controlled substances:

1121 (1) AM-694;1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone;

1122 (2) CP 47,497 and its C6, C8, and C9 homologs; 2-[(1R,3S)-3-hydroxycyclohexyl]
1123 -5-(2-methyloctan-2-yl)phenol;

- 1124 (3) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
1125 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
- 1126 (4) HU-211; Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
1127 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
- 1128 (5) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
- 1129 (6) JWH-018; Naphthalen-1-yl-(pentylindol-3-yl)methanone {also known as
1130 1-Pentyl-3-(1-naphthoyl)indole};
- 1131 (7) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
- 1132 (8) JWH-073; Naphthalen-1-yl(1-butylindol-3-yl)methanone {also known as
1133 1-Butyl-3-(1-naphthoyl)indole};
- 1134 (9) JWH-081; 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;
- 1135 (10) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
- 1136 (11) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;
- 1137 (12) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;
- 1138 (13) JWH-251; 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;
- 1139 (14) JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;
- 1140 (15) RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as
1141 BTW-8 and SR-18};
- 1142 (16) 4-methylmethcathinone {also known as mephedrone};
- 1143 (17) 3,4-methylenedioxyprovalerone {also known as MDPV};
- 1144 (18) 3,4-Methylenedioxymethcathinone {also known as methylone};
- 1145 (19) 4-methoxymethcathinone;
- 1146 (20) 4-Fluoromethcathinone; and
- 1147 (21) 3-Fluoromethcathinone.
- 1148 Section 7. Section **58-37-6** is amended to read:
- 1149 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
1150 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
1151 **required -- Prescriptions.**

1152 (1) (a) The division may adopt rules relating to the licensing and control of the
1153 manufacture, distribution, production, prescription, administration, dispensing, conducting of
1154 research with, and performing of laboratory analysis upon controlled substances within this
1155 state.

1156 (b) The division may assess reasonable fees to defray the cost of issuing original and
1157 renewal licenses under this chapter pursuant to Section 63J-1-504.

1158 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,
1159 administers, conducts research with, or performs laboratory analysis upon any controlled
1160 substance in Schedules II through V within this state, or who proposes to engage in
1161 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting
1162 research with, or performing laboratory analysis upon controlled substances included in
1163 Schedules II through V within this state shall obtain a license issued by the division.

1164 (ii) The division shall issue each license under this chapter in accordance with a
1165 two-year renewal cycle established by rule. The division may by rule extend or shorten a
1166 renewal period by as much as one year to stagger the renewal cycles it administers.

1167 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,
1168 administer, conduct research with, or perform laboratory analysis upon controlled substances in
1169 Schedules II through V within this state may possess, manufacture, produce, distribute,
1170 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon
1171 those substances to the extent authorized by their license and in conformity with this chapter.

1172 (c) The following persons are not required to obtain a license and may lawfully possess
1173 controlled substances under this section:

1174 (i) an agent or employee, except a sales representative, of any registered manufacturer,
1175 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
1176 usual course of the person's business or employment; however, nothing in this subsection shall
1177 be interpreted to permit an agent, employee, sales representative, or detail man to maintain an
1178 inventory of controlled substances separate from the location of the person's employer's
1179 registered and licensed place of business;

1180 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
1181 warehouseman, who possesses any controlled substance in the usual course of the person's
1182 business or employment; and

1183 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to
1184 a lawful order of a practitioner.

1185 (d) The division may enact rules waiving the license requirement for certain
1186 manufacturers, producers, distributors, prescribers, dispensers, administrators, research
1187 practitioners, or laboratories performing analysis if consistent with the public health and safety.

1188 (e) A separate license is required at each principal place of business or professional
1189 practice where the applicant manufactures, produces, distributes, dispenses, conducts research
1190 with, or performs laboratory analysis upon controlled substances.

1191 (f) The division may enact rules providing for the inspection of a licensee or applicant's
1192 establishment, and may inspect the establishment according to those rules.

1193 (3) (a) Upon proper application, the division shall license a qualified applicant to
1194 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon
1195 controlled substances included in Schedules I through V, unless it determines that issuance of a
1196 license is inconsistent with the public interest. The division shall not issue a license to any
1197 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining
1198 public interest, the division shall consider whether or not the applicant has:

1199 (i) maintained effective controls against diversion of controlled substances and any
1200 Schedule I or II substance compounded from any controlled substance into other than
1201 legitimate medical, scientific, or industrial channels;

1202 (ii) complied with applicable state and local law;

1203 (iii) been convicted under federal or state laws relating to the manufacture, distribution,
1204 or dispensing of substances;

1205 (iv) past experience in the manufacture of controlled dangerous substances;

1206 (v) established effective controls against diversion; and

1207 (vi) complied with any other factors that the division establishes that promote the

1208 public health and safety.

1209 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,
1210 produce, distribute, conduct research with, or perform laboratory analysis upon controlled
1211 substances in Schedule I other than those specified in the license.

1212 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with
1213 substances in Schedules II through V if they are authorized to administer, dispense, or conduct
1214 research under the laws of this state.

1215 (ii) The division need not require a separate license for practitioners engaging in
1216 research with nonnarcotic controlled substances in Schedules II through V where the licensee is
1217 already licensed under this chapter in another capacity.

1218 (iii) With respect to research involving narcotic substances in Schedules II through V,
1219 or where the division by rule requires a separate license for research of nonnarcotic substances
1220 in Schedules II through V, a practitioner shall apply to the division prior to conducting
1221 research.

1222 (iv) Licensing for purposes of bona fide research with controlled substances by a
1223 practitioner considered qualified may be denied only on a ground specified in Subsection (4),
1224 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard
1225 adequately the practitioner's supply of substances against diversion from medical or scientific
1226 use.

1227 (v) Practitioners registered under federal law to conduct research in Schedule I
1228 substances may conduct research in Schedule I substances within this state upon furnishing the
1229 division evidence of federal registration.

1230 (d) Compliance by manufacturers, producers, and distributors with the provisions of
1231 federal law respecting registration, excluding fees, entitles them to be licensed under this
1232 chapter.

1233 (e) The division shall initially license those persons who own or operate an
1234 establishment engaged in the manufacture, production, distribution, dispensation, or
1235 administration of controlled substances prior to April 3, 1980, and who are licensed by the

1236 state.

1237 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed
1238 on probation, or revoked by the division upon finding that the applicant or licensee has:

1239 (i) materially falsified any application filed or required pursuant to this chapter;

1240 (ii) been convicted of an offense under this chapter or any law of the United States, or
1241 any state, relating to any substance defined as a controlled substance;

1242 (iii) been convicted of a felony under any other law of the United States or any state
1243 within five years of the date of the issuance of the license;

1244 (iv) had a federal license denied, suspended, or revoked by competent federal authority
1245 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of
1246 controlled substances;

1247 (v) had the licensee's license suspended or revoked by competent authority of another
1248 state for violation of laws or regulations comparable to those of this state relating to the
1249 manufacture, distribution, or dispensing of controlled substances;

1250 (vi) violated any division rule that reflects adversely on the licensee's reliability and
1251 integrity with respect to controlled substances;

1252 (vii) refused inspection of records required to be maintained under this chapter by a
1253 person authorized to inspect them; or

1254 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the
1255 purpose of manipulating human hormonal structure so as to:

1256 (A) increase muscle mass, strength, or weight without medical necessity and without a
1257 written prescription by any practitioner in the course of the practitioner's professional practice;
1258 or

1259 (B) improve performance in any form of human exercise, sport, or game.

1260 (b) The division may limit revocation or suspension of a license to a particular
1261 controlled substance with respect to which grounds for revocation or suspension exist.

1262 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to
1263 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of

1264 Occupational and Professional Licensing Act, and conducted in conjunction with the
1265 appropriate representative committee designated by the director of the department.

1266 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and
1267 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,
1268 except where the division is designated by law to perform those functions, or, when not
1269 designated by law, is designated by the executive director of the Department of Commerce to
1270 conduct the proceedings.

1271 (d) (i) The division may suspend any license simultaneously with the institution of
1272 proceedings under this section if it finds there is an imminent danger to the public health or
1273 safety.

1274 (ii) Suspension shall continue in effect until the conclusion of proceedings, including
1275 judicial review, unless withdrawn by the division or dissolved by a court of competent
1276 jurisdiction.

1277 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled
1278 substances owned or possessed by the licensee may be placed under seal in the discretion of the
1279 division.

1280 (ii) Disposition may not be made of substances under seal until the time for taking an
1281 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,
1282 orders the sale of perishable substances and the proceeds deposited with the court.

1283 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

1284 (f) The division shall notify promptly the Drug Enforcement Administration of all
1285 orders suspending or revoking a license and all forfeitures of controlled substances.

1286 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and
1287 inventories in conformance with the record keeping and inventory requirements of federal and
1288 state law and any additional rules issued by the division.

1289 (b) (i) Every physician, dentist, naturopathic physician, veterinarian, practitioner, or
1290 other person who is authorized to administer or professionally use a controlled substance shall
1291 keep a record of the drugs received by him and a record of all drugs administered, dispensed, or

1292 professionally used by him otherwise than by a prescription.

1293 (ii) A person using small quantities or solutions or other preparations of those drugs for
1294 local application has complied with this Subsection (5)(b) if the person keeps a record of the
1295 quantity, character, and potency of those solutions or preparations purchased or prepared by
1296 him, and of the dates when purchased or prepared.

1297 (6) Controlled substances in Schedules I through V may be distributed only by a
1298 licensee and pursuant to an order form prepared in compliance with division rules or a lawful
1299 order under the rules and regulations of the United States.

1300 (7) (a) A person may not write or authorize a prescription for a controlled substance
1301 unless the person is:

1302 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state
1303 or under the laws of another state having similar standards; and

1304 (ii) licensed under this chapter or under the laws of another state having similar
1305 standards.

1306 (b) A person other than a pharmacist licensed under the laws of this state, or the
1307 pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not
1308 dispense a controlled substance.

1309 (c) (i) A controlled substance may not be dispensed without the written prescription of
1310 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

1311 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in
1312 conformity with Subsection (7)(d).

1313 (iii) In emergency situations, as defined by division rule, controlled substances may be
1314 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms
1315 designated by the division and filed by the pharmacy.

1316 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with
1317 Subsection (7)(d).

1318 (d) Except for emergency situations designated by the division, a person may not issue,
1319 fill, compound, or dispense a prescription for a controlled substance unless the prescription is

1320 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of
1321 the prescriber as authorized by division rule, and contains the following information:

1322 (i) the name, address, and registry number of the prescriber;

1323 (ii) the name, address, and age of the person to whom or for whom the prescription is
1324 issued;

1325 (iii) the date of issuance of the prescription; and

1326 (iv) the name, quantity, and specific directions for use by the ultimate user of the
1327 controlled substance.

1328 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I
1329 controlled substance.

1330 (f) Except when administered directly to an ultimate user by a licensed practitioner,
1331 controlled substances are subject to the following restrictions:

1332 (i) (A) A prescription for a Schedule II substance may not be refilled.

1333 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a
1334 one-month's supply, as directed on the daily dosage rate of the prescriptions.

1335 (ii) A Schedule III or IV controlled substance may be filled only within six months of
1336 issuance, and may not be refilled more than six months after the date of its original issuance or
1337 be refilled more than five times after the date of the prescription unless renewed by the
1338 practitioner.

1339 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's
1340 prescription directs, but they may not be refilled one year after the date the prescription was
1341 issued unless renewed by the practitioner.

1342 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not
1343 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days
1344 after the date the prescription was issued, or 30 days after the dispensing date, if that date is
1345 specified separately from the date of issue.

1346 (v) A practitioner may issue more than one prescription at the same time for the same
1347 Schedule II controlled substance, but only under the following conditions:

1348 (A) no more than three prescriptions for the same Schedule II controlled substance may
1349 be issued at the same time;

1350 (B) no one prescription may exceed a 30-day supply;

1351 (C) a second or third prescription shall include the date of issuance and the date for
1352 dispensing; and

1353 (D) unless the practitioner determines there is a valid medical reason to the contrary,
1354 the date for dispensing a second or third prescription may not be fewer than 30 days from the
1355 dispensing date of the previous prescription.

1356 (vi) Each prescription for a controlled substance may contain only one controlled
1357 substance per prescription form and may not contain any other legend drug or prescription
1358 item.

1359 (g) An order for a controlled substance in Schedules II through V for use by an
1360 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
1361 Subsection (7) if the order is:

1362 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
1363 with the federal Drug Enforcement Administration, and an active Utah controlled substance
1364 license in good standing issued by the division under this section, or a medical resident who is
1365 exempted from licensure under Subsection 58-1-307(1)(c);

1366 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
1367 practitioner designates the quantity ordered;

1368 (iii) entered upon the record of the patient, the record is signed by the prescriber
1369 affirming the prescriber's authorization of the order within 48 hours after filling or
1370 administering the order, and the patient's record reflects the quantity actually administered; and

1371 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within
1372 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by
1373 the hospital and the amount taken from the supply is administered directly to the patient
1374 authorized to receive it.

1375 (h) A practitioner licensed under this chapter may not prescribe, administer, or

1376 dispense a controlled substance to a child, without first obtaining the consent required in
1377 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except
1378 in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same
1379 meaning as defined in Section 78A-6-105, and "emergency" means any physical condition
1380 requiring the administration of a controlled substance for immediate relief of pain or suffering.

1381 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
1382 of a controlled substance in excess of medically recognized quantities necessary to treat the
1383 ailment, malady, or condition of the ultimate user.

1384 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
1385 any controlled substance to another person knowing that the other person is using a false name,
1386 address, or other personal information for the purpose of securing the controlled substance.

1387 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense
1388 a controlled substance may not manufacture, distribute, or dispense a controlled substance to
1389 another licensee or any other authorized person not authorized by this license.

1390 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a
1391 symbol required by this chapter or by a rule issued under this chapter.

1392 (m) A person licensed under this chapter may not refuse or fail to make, keep, or
1393 furnish any record notification, order form, statement, invoice, or information required under
1394 this chapter.

1395 (n) A person licensed under this chapter may not refuse entry into any premises for
1396 inspection as authorized by this chapter.

1397 (o) A person licensed under this chapter may not furnish false or fraudulent material
1398 information in any application, report, or other document required to be kept by this chapter or
1399 willfully make any false statement in any prescription, order, report, or record required by this
1400 chapter.

1401 (8) (a) (i) Any person licensed under this chapter who is found by the division to have
1402 violated any of the provisions of Subsections (7)(k) through (7)(o) or Subsection (10) is subject
1403 to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication

1404 of any violations in accordance with Sections 58-1-106 and 58-1-108.

1405 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the
1406 General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

1407 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through
1408 (7)(j) or Subsection (10) is:

1409 (i) upon first conviction, guilty of a class B misdemeanor;

1410 (ii) upon second conviction, guilty of a class A misdemeanor; and

1411 (iii) on third or subsequent conviction, guilty of a third degree felony.

1412 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
1413 (7)(o) shall upon conviction be guilty of a third degree felony.

1414 (9) Any information communicated to any licensed practitioner in an attempt to
1415 unlawfully procure, or to procure the administration of, a controlled substance is not considered
1416 to be a privileged communication.

1417 (10) A person holding a valid license under this chapter who is engaged in medical
1418 research may produce, possess, or administer, but may not prescribe or dispense, a controlled
1419 substance listed in Section 58-37-4.2.

1420 Section 8. Section **58-37-8** is amended to read:

1421 **58-37-8. Prohibited acts -- Penalties.**

1422 (1) Prohibited acts A -- Penalties:

1423 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and
1424 intentionally:

1425 (i) produce, manufacture, or dispense, or to possess with intent to produce,
1426 manufacture, or dispense, a controlled or counterfeit substance;

1427 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
1428 arrange to distribute a controlled or counterfeit substance;

1429 (iii) possess a controlled or counterfeit substance with intent to distribute; or

1430 (iv) engage in a continuing criminal enterprise where:

1431 (A) the person participates, directs, or engages in conduct which results in any

1432 violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and
1433 (B) the violation is a part of a continuing series of two or more violations of Title 58,
1434 Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with
1435 five or more persons with respect to whom the person occupies a position of organizer,
1436 supervisor, or any other position of management.

1437 (b) Any person convicted of violating Subsection (1)(a) with respect to:

1438 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
1439 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
1440 degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

1441 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
1442 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
1443 upon a second or subsequent conviction is guilty of a second degree felony; or

1444 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
1445 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1446 felony.

1447 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
1448 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
1449 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his
1450 person or in his immediate possession during the commission or in furtherance of the offense,
1451 the court shall additionally sentence the person convicted for a term of one year to run
1452 consecutively and not concurrently; and the court may additionally sentence the person
1453 convicted for an indeterminate term not to exceed five years to run consecutively and not
1454 concurrently.

1455 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1456 felony punishable by imprisonment for an indeterminate term of not less than seven years and
1457 which may be for life. Imposition or execution of the sentence may not be suspended, and the
1458 person is not eligible for probation.

1459 (2) Prohibited acts B -- Penalties:

- 1460 (a) It is unlawful:
- 1461 (i) for any person knowingly and intentionally to possess or use a controlled substance
- 1462 analog or a controlled substance, unless it was obtained under a valid prescription or order,
- 1463 directly from a practitioner while acting in the course of the person's professional practice, or as
- 1464 otherwise authorized by this chapter;
- 1465 (ii) for any owner, tenant, licensee, or person in control of any building, room,
- 1466 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
- 1467 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
- 1468 any of those locations; or
- 1469 (iii) for any person knowingly and intentionally to possess an altered or forged
- 1470 prescription or written order for a controlled substance.
- 1471 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:
- 1472 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
- 1473 (ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16
- 1474 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree
- 1475 felony; or
- 1476 (iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of
- 1477 the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A
- 1478 misdemeanor.
- 1479 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
- 1480 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
- 1481 penalty than provided in this Subsection (2).
- 1482 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
- 1483 substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in
- 1484 Section 58-37-4.2, or less than one ounce of marijuana, is guilty of a class B misdemeanor.
- 1485 Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or
- 1486 subsequent conviction the person is guilty of a third degree felony.
- 1487 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior

1488 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or
1489 any public jail or other place of confinement shall be sentenced to a penalty one degree greater
1490 than provided in Subsection (2)(b), and if the conviction is with respect to controlled
1491 substances as listed in:

1492 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
1493 indeterminate term as provided by law, and:

1494 (A) the court shall additionally sentence the person convicted to a term of one year to
1495 run consecutively and not concurrently; and

1496 (B) the court may additionally sentence the person convicted for an indeterminate term
1497 not to exceed five years to run consecutively and not concurrently; and

1498 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
1499 indeterminate term as provided by law, and the court shall additionally sentence the person
1500 convicted to a term of six months to run consecutively and not concurrently.

1501 (f) Any person convicted of violating Subsection (2)(a)(ii) or [~~(2)(a)~~](iii) is:

1502 (i) on a first conviction, guilty of a class B misdemeanor;

1503 (ii) on a second conviction, guilty of a class A misdemeanor; and

1504 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1505 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1506 amounting to a violation of Section 76-5-207:

1507 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1508 body any measurable amount of a controlled substance; and

1509 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
1510 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

1511 (h) A person who violates Subsection (2)(g) by having in the person's body:

1512 (i) a controlled substance classified under Schedule I, other than those described in
1513 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1514 degree felony;

1515 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection

1516 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
1517 degree felony; or

1518 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
1519 A misdemeanor.

1520 (i) A person is guilty of a separate offense for each victim suffering serious bodily
1521 injury or death as a result of the person's negligent driving in violation of Subsection
1522 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

1523 (3) Prohibited acts C -- Penalties:

1524 (a) It is unlawful for any person knowingly and intentionally:

1525 (i) to use in the course of the manufacture or distribution of a controlled substance a
1526 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1527 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1528 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1529 person;

1530 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1531 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
1532 be attempting to acquire or obtain possession of, or to procure the administration of any
1533 controlled substance by misrepresentation or failure by the person to disclose receiving any
1534 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1535 prescription or written order for a controlled substance, or the use of a false name or address;

1536 (iii) to make any false or forged prescription or written order for a controlled substance,
1537 or to utter the same, or to alter any prescription or written order issued or written under the
1538 terms of this chapter; or

1539 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
1540 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1541 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1542 so as to render any drug a counterfeit controlled substance.

1543 (b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree

1544 felony.

1545 (4) Prohibited acts D -- Penalties:

1546 (a) Notwithstanding other provisions of this section, a person not authorized under this
1547 chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a,
1548 Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances
1549 Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if
1550 the trier of fact finds the act is committed:

1551 (i) in a public or private elementary or secondary school or on the grounds of any of
1552 those schools;

1553 (ii) in a public or private vocational school or postsecondary institution or on the
1554 grounds of any of those schools or institutions;

1555 (iii) in those portions of any building, park, stadium, or other structure or grounds
1556 which are, at the time of the act, being used for an activity sponsored by or through a school or
1557 institution under Subsections (4)(a)(i) and (ii);

1558 (iv) in or on the grounds of a preschool or child-care facility;

1559 (v) in a public park, amusement park, arcade, or recreation center;

1560 (vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

1561 (vii) in a shopping mall, sports facility, stadium, arena, theater, movie house,
1562 playhouse, or parking lot or structure adjacent thereto;

1563 (viii) in or on the grounds of a library;

1564 (ix) within any area that is within 1,000 feet of any structure, facility, or grounds
1565 included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

1566 (x) in the presence of a person younger than 18 years of age, regardless of where the act
1567 occurs; or

1568 (xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1569 distribution of a substance in violation of this section to an inmate or on the grounds of any
1570 correctional facility as defined in Section 76-8-311.3.

1571 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony

1572 and shall be imprisoned for a term of not less than five years if the penalty that would
1573 otherwise have been established but for this Subsection (4) would have been a first degree
1574 felony.

1575 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1576 not eligible for probation.

1577 (c) If the classification that would otherwise have been established would have been
1578 less than a first degree felony but for this Subsection (4), a person convicted under this
1579 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1580 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1581 (d) (i) If the violation is of Subsection (4)(a)(xi):

1582 (A) the person may be sentenced to imprisonment for an indeterminate term as
1583 provided by law, and the court shall additionally sentence the person convicted for a term of
1584 one year to run consecutively and not concurrently; and

1585 (B) the court may additionally sentence the person convicted for an indeterminate term
1586 not to exceed five years to run consecutively and not concurrently; and

1587 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with
1588 the mental state required for the commission of an offense, directly or indirectly solicits,
1589 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1590 violation of Subsection (4)(a)(xi).

1591 (e) It is not a defense to a prosecution under this Subsection (4) that the actor
1592 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
1593 was unaware of the individual's true age; nor that the actor mistakenly believed that the
1594 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
1595 the location where the act occurred was as described in Subsection (4)(a).

1596 (5) Any violation of this chapter for which no penalty is specified is a class B
1597 misdemeanor.

1598 (6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of
1599 guilty or no contest to a violation of this section which is held in abeyance under Title 77,

1600 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been
1601 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

1602 (7) A person may be charged and sentenced for a violation of this section,
1603 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1604 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in
1605 lieu of, any civil or administrative penalty or sanction authorized by law.

1606 (b) Where violation of this chapter violates a federal law or the law of another state,
1607 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1608 prosecution in this state.

1609 (9) In any prosecution for a violation of this chapter, evidence or proof which shows a
1610 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1611 substance or substances, is prima facie evidence that the person or persons did so with
1612 knowledge of the character of the substance or substances.

1613 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1614 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1615 administering controlled substances or from causing the substances to be administered by an
1616 assistant or orderly under the veterinarian's direction and supervision.

1617 (11) Civil or criminal liability may not be imposed under this section on:

1618 (a) any person registered under this chapter who manufactures, distributes, or possesses
1619 an imitation controlled substance for use as a placebo or investigational new drug by a
1620 registered practitioner in the ordinary course of professional practice or research; or

1621 (b) any law enforcement officer acting in the course and legitimate scope of the
1622 officer's employment.

1623 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1624 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide
1625 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1626 as defined in Subsection 58-37-2(1)(w).

1627 (b) In a prosecution alleging violation of this section regarding peyote as defined in

1628 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,
 1629 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in
 1630 connection with the practice of a traditional Indian religion.

1631 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
 1632 defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to
 1633 trial.

1634 (ii) The notice shall include the specific claims of the affirmative defense.

1635 (iii) The court may waive the notice requirement in the interest of justice for good
 1636 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1637 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
 1638 a preponderance of the evidence. If the defense is established, it is a complete defense to the
 1639 charges.

1640 (13) (a) It is an affirmative defense that the person produced, possessed, or
 1641 administered a controlled substance listed in Section 58-37-4.2 if the person:

1642 (i) was engaged in medical research; and

1643 (ii) was a holder of a valid license to possess controlled substances under Section
 1644 58-37-6.

1645 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
 1646 a controlled substance listed in Section 58-37-4.2.

1647 (14) It is an affirmative defense that the person possessed, in the person's body, a
 1648 controlled substance listed in Section 58-37-4.2 if:

1649 (a) the person was the subject of medical research conducted by a holder of a valid
 1650 license to possess controlled substances under Section 58-37-6; and

1651 (b) the substance was administered to the person by the medical researcher.

1652 ~~[(13)]~~ (15) If any provision of this chapter, or the application of any provision to any
 1653 person or circumstances, is held invalid, the remainder of this chapter shall be given effect
 1654 without the invalid provision or application.

1655 (16) A legislative body of a political subdivision may not enact an ordinance that is

1656 less restrictive than any provision of this chapter.

1657 Section 9. Section **58-38a-203** is amended to read:

1658 **58-38a-203. Duties of the committee.**

1659 (1) The committee serves as a consultative and advisory body to the Legislature
1660 regarding:

1661 (a) the movement of a controlled substance from one schedule or list to another;

1662 (b) the removal of a controlled substance from any schedule or list; and

1663 (c) the designation of a substance as a controlled substance and the placement of the
1664 substance in a designated schedule or list.

1665 (2) On or before September 30 of each year, the committee shall submit to the Health
1666 and Human Services Interim Committee a written report:

1667 (a) [~~listing~~] describing any substances recommended by the committee for scheduling,
1668 rescheduling, listing, or deletion from the schedules or list by the Legislature; and

1669 (b) stating the reasons for the recommendation.

1670 (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a
1671 substance, the committee shall consider:

1672 (a) the actual or probable abuse of the substance, including:

1673 (i) the history and current pattern of abuse both in Utah and in other states;

1674 (ii) the scope, duration, and significance of abuse;

1675 (iii) the degree of actual or probable detriment to public health which may result from
1676 abuse of the substance; and

1677 (iv) the probable physical and social impact of widespread abuse of the substance;

1678 (b) the biomedical hazard of the substance, including:

1679 (i) its pharmacology, including the effects and modifiers of the effects of the substance;

1680 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,

1681 whether controlled or not, and the degree to which it may cause psychological or physiological
1682 dependence; and

1683 (iii) the risk to public health and the particular susceptibility of segments of the

1684 population;

1685 (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of
1686 a substance that is currently a controlled substance;

1687 (d) the current state of scientific knowledge regarding the substance, including whether
1688 there is any acceptable means to safely use the substance under medical supervision;

1689 (e) the relationship between the use of the substance and criminal activity, including
1690 whether:

1691 (i) persons engaged in illicit trafficking of the substance are also engaged in other
1692 criminal activity;

1693 (ii) the nature and relative profitability of manufacturing or delivering the substance
1694 encourages illicit trafficking in the substance;

1695 (iii) the commission of other crimes is one of the recognized effects of abuse of the
1696 substance; and

1697 (iv) addiction to the substance relates to the commission of crimes to facilitate the
1698 continued use of the substance;

1699 (f) whether the substance has been scheduled by other states; and

1700 (g) whether the substance has any accepted medical use in treatment in the United
1701 States.

1702 (4) The committee's duties under this chapter do not include tobacco products as
1703 defined in Section 59-14-102 or alcoholic beverages as defined in Section 32A-1-105.

1704 Section 10. Section **58-38a-204** is amended to read:

1705 **58-38a-204. Guidelines for scheduling or listing drugs.**

1706 (1) (a) The committee shall recommend placement of a substance in Schedule I if it
1707 finds:

1708 (i) that the substance has high potential for abuse; and

1709 (ii) that an accepted standard has not been established for safe use in treatment for
1710 medical purposes.

1711 (b) The committee may recommend placement of a substance in Schedule I under

1712 Section 58-37-4 if it finds that the substance is classified as a controlled substance in Schedule
1713 I under federal law.

1714 (2) (a) The committee shall recommend placement of a substance in Schedule II if it
1715 finds that:

1716 (i) the substance has high potential for abuse;

1717 (ii) the substance has a currently accepted medical use in treatment in the United
1718 States, or a currently accepted medical use subject to severe restrictions; and

1719 (iii) the abuse of the substance may lead to severe psychological or physiological
1720 dependence.

1721 (b) The committee may recommend placement of a substance in Schedule II if it finds
1722 that the substance is classified as a controlled substance in Schedule II under federal law.

1723 (3) (a) The committee shall recommend placement of a substance in Schedule III if it
1724 finds that:

1725 (i) the substance has a potential for abuse that is less than the potential for substances
1726 listed in Schedules I and II;

1727 (ii) the substance has a currently accepted medical use in treatment in the United
1728 States; and

1729 (iii) abuse of the substance may lead to moderate or low physiological dependence or
1730 high psychological dependence.

1731 (b) The committee may recommend placement of a substance in Schedule III if it finds
1732 that the substance is classified as a controlled substance in Schedule III under federal law.

1733 (4) (a) The committee shall recommend placement of a substance in Schedule IV if it
1734 finds that:

1735 (i) the substance has a low potential for abuse relative to substances in Schedule III;

1736 (ii) the substance has currently accepted medical use in treatment in the United States;
1737 and

1738 (iii) abuse of the substance may lead to limited physiological dependence or
1739 psychological dependence relative to the substances in Schedule III.

1740 (b) The committee may recommend placement of a substance in Schedule IV if it finds
1741 that the substance is classified as a controlled substance in Schedule IV under federal law.

1742 (5) (a) The committee shall recommend placement of a substance in Schedule V if it
1743 finds that:

1744 (i) the substance has low potential for abuse relative to the controlled substances listed
1745 in Schedule IV;

1746 (ii) the substance has currently accepted medical use in treatment in the United States;
1747 and

1748 (iii) the substance has limited physiological dependence or psychological dependence
1749 liability relative to the controlled substances listed in Schedule IV.

1750 (b) The committee may recommend placement of a substance in Schedule V under this
1751 chapter if it finds that the substance is classified as a controlled substance in Schedule V under
1752 federal law.

1753 (6) The committee may recommend placement of a substance on a controlled substance
1754 list if it finds that the substance has a potential for abuse and that an accepted standard has not
1755 been established for safe use in treatment for medical purposes.

1756 Section 11. **Effective date.**

1757 If approved by two-thirds of all the members elected to each house, this bill takes effect
1758 upon approval by the governor, or the day following the constitutional time limit of Utah
1759 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
1760 the date of veto override, except that the amendments to Section 58-37-2 (Effective 07/01/11)
1761 take effect on July 1, 2011.