SECOND REGULAR SESSION

SENATE BILL NO. 732

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAMPION.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3442S.01I

AN ACT

To repeal sections 195.010, 195.017, and 195.417, RSMo, and to enact in lieu thereof eleven new sections relating to monitoring of drugs, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 195.010, 195.017, and 195.417, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 195.010, 195.017, 195.378, 195.381, 195.384, 195.387, 195.390, 195.393, 195.396, 195.399, and 195.417, to read as follows:

195.010. The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) **[**"Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2)**]** "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

[(3)**]** **(2)** "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

[(4)**]** **(3)** "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

[(5)**]** **(4)** "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

[(6)**]** **(5)** "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

[(7)**]** **(6)** "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

[(8)**]** **(7)** "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

[(9)**]** **(8)** "Dentist", a person authorized by law to practice dentistry in this state;

[(10)**]** **(9)** "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

[(11)**]** **(10)** "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

[(12)**]** **(11)** "Distribute", to deliver other than by administering or dispensing a controlled substance;

[(13)**]** **(12)** "Distributor", a person who distributes;

[(14)**]** **(13)** "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

[(15) "Drug-dependent person", a person who is using a controlled

substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16)**] (14)** "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

[(17)**] (15)** "Drug paraphernalia", all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended

for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

(i) National or local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(m) The existence and scope of legitimate uses for the object in the community;

(n) Expert testimony concerning its use;

(o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;

[(18)**]** **(16)** "Federal narcotic laws", the laws of the United States relating to controlled substances;

[(19)**]** **(17)** "Hospital", a place devoted primarily to the maintenance and

operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

[(20)**]** **(18)** "Immediate precursor", a substance which:

(a) The state department of health and senior services has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

(b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

[(21)**]** **(19)** "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price

at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

[(22)**]** **(20)** "Laboratory", a laboratory approved by the department of health and senior services as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

[(23)**]** **(21)** "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice, or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

[(24)**]** **(22)** "Marijuana", all parts of the plant genus Cannabis in any species or form thereof, including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

[(25)**]** **(23)** "Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

[(26)**]** **(24)** "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

[(27)**]** **(25)** "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health and senior services;

[(28)**]** **(26)** "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

[(29)**]** **(27)** "Opium poppy", the plant of the species Papaver somniferum L., except its seeds;

[(30)**]** **(28)** "Over-the-counter sale", a retail sale licensed pursuant to chapter 144, RSMo, of a drug other than a controlled substance;

[(31)**]** **(29)** "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

[(32)**]** **(30)** "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place

of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

[(33)**]** **(31)** "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

[(34)**]** **(32)** "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

[(35)**]** **(33)** "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

[(36)**]** **(34)** "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

[(37)**]** **(35)** "Registry number", the number assigned to each person registered under the federal controlled substances laws;

[(38)**]** **(36)** "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

[(39)**]** **(37)** "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any

area subject to the legal authority of the United States of America;

[(40)**]** **(38)** "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(41)**]** **(39)** "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.017. 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha-methylfentanyl;

(h) Alpha-methylthiofentanyl;

(i) Benzethidine;

(j) Betacetylmethadol;

(k) Beta-hydroxyfentanyl;

(l) Beta-hydroxy-3-methylfentanyl;

(m) Betameprodine;

(n) Betamethadol;

(o) Betaprodine;

(p) Clonitazene;

(q) Dextromoramide;

(r) Diampromide;

(s) Diethylthiambutene;

(t) Difenoxin;

(u) Dimenoxadol;

(v) Dimepheptanol;

(w) Dimethylthiambutene;

(x) Dioxaphetyl butyrate;

(y) Dipipanone;

(z) Ethylmethylthiambutene;

(aa) Etonitazene;

(bb) Etoxeridine;

(cc) Furethidine;

(dd) Hydroxypethidine;

(ee) Ketobemidone;

(ff) Levomoramide;

(gg) Levophenacylmorphan;

(hh) 3-Methylfentanyl;

(ii) 3-Methylthiofentanyl;

(jj) Morpheridine;

(kk) MPPP;

(ll) Noracymethadol;

(mm) Norlevorphanol;

(nn) Normethadone;

(oo) Norpipanone;

(pp) Para-fluorofentanyl;

(qq) PEPAP;

(rr) Phenadoxone;

(ss) Phenampromide;

(tt) Phenomorphan;

(uu) Phenoperidine;

(vv) Piritramide;

(ww) Proheptazine;

(xx) Properidine;

(yy) Propiram;

(zz) Racemoramide;

(aaa) Thiofentanyl;

(bbb) Tilidine;

(ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;

(b) Acetyldihydrocodeine;

(c) Benzylmorphine;

(d) Codeine methylbromide;

(e) Codeine-N-Oxide;

(f) Cyprenorphine;

(g) Desomorphine;

(h) Dihydromorphine;

(i) Drotebanol;

(j) Etorphine; (except Hydrochloride Salt);

(k) Heroin;

(l) Hydromorphinol;

(m) Methyldesorphine;

(n) Methyldihydromorphine;

(o) Morphine methylbromide;

(p) Morphine methyl sulfonate;

(q) Morphine-N-Oxide;

(r) **[**Morphine**]** **Myrophine**;

(s) Nicocodeine;

(t) Nicomorphine;

(u) Normorphine;

(v) Pholcodine;

(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) **[**4-brome-2,5-dimethoxyamphetamine**]** **4-bromo-2, 5-dimethoxyamphetamine**;

(b) 4-bromo-2, 5-dimethoxyphenethylamine;

(c) 2,5-dimethoxyamphetamine;

(d) 2,5-dimethoxy-4-ethylamphetamine;

(e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;

(f) 4-methoxyamphetamine;

(g) 5-methoxy-3,4-methylenedioxyamphetamine;

(h) **[**4-methyl-2,5-dimethoxy amphetamine**]** **4-methyl-2, 5-dimethoxyamphetamine**;

(i) 3,4-methylenedioxyamphetamine;

(j) 3,4-methylenedioxymethamphetamine;

(k) 3,4-methylenedioxy-N-ethylamphetamine;

(l) **[**N-nydroxy-3, 4-methylenedioxyamphetamine**]** **N-hydroxy-3, 4-methylenedioxyamphetamine**;

(m) 3,4,5-trimethoxyamphetamine;

(n) Alpha-ethyltryptamine;

(o) Benzylpiperazine or B.P.;

(p) Bufotenine;

(q) Diethyltryptamine;

(r) Dimethyltryptamine;

(s) Ibogaine;

(t) Lysergic acid diethylamide;

(u) Marijuana; (Marihuana);

(v) Mescaline;

(w) Parahexyl;

(x) Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;

(y) N-ethyl-3-piperidyl benzilate;

(z) N-methyl-3-piperidyl benzilate;

(aa) Psilocybin;

(bb) Psilocyn;

(cc) Tetrahydrocannabinols;

(dd) Ethylamine analog of phencyclidine;

(ee) Pyrrolidine analog of phencyclidine;

(ff) Thiophene analog of phencyclidine;

(gg) 1-(3-Trifluoromethylphenyl)piperazine or TFMPP;

(hh) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;

(ii) Salvia divinorum;

(jj) Salvinorin A;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Gamma hydroxybutyric acid;

(b) Mecloqualone;

(c) Methaqualone;

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

(a) Aminorex;

(b) Cathinone;

(c) Fenethylline;

(d) Methcathinone;

(e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazolamine);

(f) N-ethylamphetamine;

(g) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) **[**N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide**]** **N-(1-benzyl-4-piperidyl)-N157 phenylpropanamide** (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers;

(c) Alpha-Methyltryptamine, or (AMT);

(d) 5-Methoxy-N,N-Diisopropyltryptamine, or(5-MeO-DIPT);

(8) Khat, to include all parts of the plant presently classified botanically as catha edulis, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

3. The department of health and senior services shall place a substance

in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

a. Raw opium;

b. Opium extracts;

c. Opium fluid;

d. Powdered opium;

e. Granulated opium;

f. Tincture of opium;

g. Codeine;

h. Ethylmorphine;

i. Etorphine hydrochloride;

j. Hydrocodone;

k. Hydromorphone;

l. Metopon;

m. Morphine;

n. Oxycodone;

o. Oxymorphone;

p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca

leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil;

(b) Alphaprodine;

(c) Anileridine;

(d) Bezitramide;

(e) Bulk Dextropropoxyphene;

(f) Carfentanil;

(g) Butyl nitrite;

(h) Dihydrocodeine;

(i) Diphenoxylate;

(j) Fentanyl;

(k) Isomethadone;

(l) Levo-alphacetylmethadol;

(m) Levomethorphan;

(n) Levorphanol;

(o) Metazocine;

(p) Methadone;

(q) Meperidine;

(r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;

(s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane--carboxylic acid;

(t) Pethidine;

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

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

(w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;

(x) Phenazocine;

(y) Piminodine;

(z) Racemethorphan;

(aa) Racemorphan;

(bb) Sufentanil;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) **Lisdexamfetamine dimesylate;**

(c) Methamphetamine, its salts, isomers, and salts of its isomers;

[(c)**]** **(d)** Phenmetrazine and its salts;

[(d)**]** **(e)** Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Glutethimide;

(c) Pentobarbital;

(d) Phencyclidine;

(e) Secobarbital;

(5) Any material, compound or compound which contains any quantity of nabilone;

(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;

(b) Immediate precursors to phencyclidine (PCP):

a. 1-phenylcyclohexylamine;

b. 1-piperidinocyclohexanecarbonitrile (PCC).

5. The department of health and senior services shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

6. The controlled substances listed in this subsection are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

a. Amobarbital;

b. Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;

c. Secobarbital;

d. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

(d) Chlorhexadol;

(e) Ketamine, its salts, isomers, and salts of isomers;

(f) Lysergic acid;

(g) Lysergic acid amide;

(h) Methyprylon;

(i) Sulfondiethylmethane;

(j) Sulfonethylmethane;

(k) Sulfonmethane;

(l) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;

(6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(a) **[**Boldenone;

(b) Chlorotestosterone (4-Chlortestosterone);

(c) Clostebol;

(d) Dehydrochlormethyltestosterone;

(e) Dihydrostestosterone (4-Dihydro-testosterone);

(f) Drostanolone;

(g) Ethylestrenol;

(h) Fluoxymesterone;

(i) Formebulone (Formebolone);

(j) Mesterolone;

(k) Methandienone;

(l) Methandranone;

(m) Methandriol;

(n) Methandrostenolone;

(o) Methenolone;

(p) Methyltestosterone;

(q) Mibolerone;

(r) Nandrolone;

(s) Norethandrolone;

(t) Oxandrolone;

(u) Oxymesterone;

(v) Oxymetholone;

(w) Stanolone;

(x) Stanozolol;

(y) Testolactone;

(z) Testosterone;

(aa) Trenbolone;

(bb)**] 3β,17-dihydroxy-5a-androstane;**

(b) 3α,17β-dihydroxy-5a-androstane;

(c) 5α-androstan-3,17-dione;

(d) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

(e) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

(f) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene);

(g) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

(h) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

(i) 4-androstenedione (androst-4-en-3,17-dione);

(j) 5-androstenedione (androst-5-en-3,17-dione);

(k) Bolasterone (7α, 17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(l) Boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

(m) Calusterone (7β, 17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(n) Clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

(o) Dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

(p) Δ1-dihydrotestosterone (a.k.a. '1-testosterone')(17β-hydroxy-5α-androst-1-en-3-one);

(q) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

(r) Drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

(s) Ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

(t) Fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

(u) Formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

(v) Furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

(w) 13β-ethyl-17α-hydroxygon-4-en-3-one;

(x) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

(y) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

(z) Mestanolone (17α-methyl-17β-hydroxy-5-androstan-3-one);

(aa) Mesterolone (1αmethyl-17β-hydroxy-[5α]-androstan-3-one);

(bb) Methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

(cc) Methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

(dd) Methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

(ee) 17α-methyl-3β,17β-dihydroxy-5a-androstane);

(ff) 17α-methyl-3α,17β-dihydroxy-5a-androstane);

(gg) 17α-methyl-3β,17β-dihydroxyandrost-4-ene;

(hh) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);

(ii) Methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);

(jj) Methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);

(kk) Methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

(ll) Mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

(mm) 17α-methyl-Δ1-dihydrotestosterone (17bβ-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone');

(nn) Nandrolone (17β-hydroxyestr-4-ene-3-one);

(oo) 19-nor-4-androstenediol (3β,17β-dihydroxyestr-4-ene);

(pp) 19-nor-4-androstenediol (3α,17β-dihydroxyestr-4-ene);

(qq) 19-nor-5-androstenediol (3β,17β-dihydroxyestr-5-ene);

(rr) 19-nor-5-androstenediol (3α,17β-dihydroxyestr-5-ene);

(ss) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(tt) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(uu) Norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

(vv) Norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

(ww) Norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

(xx) Normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

(yy) Oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

(zz) Oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

(aaa) Oxymethalone (17a-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

(bbb) Stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-

c]-pyrazole);

(ccc) Stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

(ddd) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(eee) Testosterone (17β-hydroxyandrost-4-en-3-one);

(fff) Tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

(ggg) Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one);

(hhh) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6.6.9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-)-delta-9-(trans)-tetrahydracannabinol);

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in

Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethy-lamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam;

(b) Barbital;

(c) Bromazepam;

(d) Camazepam;

(e) Chloral betaine;

(f) Chloral hydrate;

(g) Chlordiazepoxide;

(h) Clobazam;

(i) Clonazepam;

(j) Clorazepate;

(k) Clotiazepam;

(l) Cloxazolam;

(m) Delorazepam;

(n) Diazepam;

(o) Dichloralphenazone;

(p) Estazolam;

(q) Ethchlorvynol;

(r) Ethinamate;

(s) Ethyl loflazepate;

(t) Fludiazepam;

(u) Flunitrazepam;

(v) Flurazepam;

(w) Halazepam;

(x) Haloxazolam;

(y) Ketazolam;

(z) Loprazolam;

(aa) Lorazepam;

(bb) Lormetazepam;

(cc) Mebutamate;

(dd) Medazepam;

(ee) Meprobamate;

(ff) Methohexital;

(gg) Methylphenobarbital;

(hh) Midazolam;

(ii) Nimetazepam;

(jj) Nitrazepam;

(kk) Nordiazepam;

(ll) Oxazepam;

(mm) Oxazolam;

(nn) Paraldehyde;

(oo) Petrichloral;

(pp) Phenobarbital;

(qq) Pinazepam;

(rr) Prazepam;

(ss) Quazepam;

(tt) Temazepam;

(uu) Tetrazepam;

(vv) Triazolam;

(ww) Zaleplon;

(xx) Zolpidem;

(yy) Zopiclone, including its salts, isomers, and salts of isomers;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

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

(a) Cathine ((+)-norpseudoephedrine);

(b) Diethylpropion;

(c) Fencamfamin;

(d) Fenproporex;

(e) Mazindol;

(f) Mefenorex;

(g) Modafinil;

(h) Pemoline, including organometallic complexes and chelates thereof;

(i) Phentermine;

(j) Pipradrol;

(k) Sibutramine;

(l) SPA ((-)-1-dimethyamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

(a) butorphanol;

(b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance

in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers**;**

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts: pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist**, intern pharmacist,** or registered pharmacy technician shall require any person**, prior to their** purchasing, receiving or otherwise acquiring such compound, mixture, or preparation**[**, who is not known to the pharmacist or registered pharmacy technician,**]** to furnish suitable photo identification **that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and** showing the date of birth of the person**;**

(4) The seller shall deliver the product directly into the custody of the purchaser.

12. **[**Within ninety days of the enactment of this section,**]** Pharmacists**, intern pharmacists,** and registered pharmacy technicians shall implement and maintain **[**a written or**]** **an** electronic log of each transaction. Such log shall include the following information:

(1) The name **[**and**],** address**, and signature** of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date **and time** of each purchase; and

(4) The name or initials of the pharmacist**, intern pharmacist,** or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

14. **[**Within thirty days of the enactment of this section,**]** All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

15. [Within thirty days of the enactment of this section, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substances registrant.

16.] Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

[17.] **16.** The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

[18.] **17.** The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

[19.] **18.** The department of health and senior services shall revise and republish the schedules annually.

[20.] **19.** The department of health and senior services shall promulgate rules under chapter 536, RSMo, regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

195.378. 1. Sections 195.378 to 195.399 shall be known and may be cited as the "Drug Monitoring Act".

2. Notwithstanding the provisions of section 195.010, as used in sections 195.378 to 195.399, the following terms mean:

(1) "Controlled substance", as defined in section 195.010;

(2) "Department", the department of health and senior services;

(3) "Dispenser", a person who delivers a schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A hospital as defined in section 197.020, RSMo, that distributes such substances for the purpose of inpatient hospital care or dispenses prescriptions for controlled substances at the time of discharge from such facility;

(b) A practitioner or other authorized person who administers such a substance;

(c) A wholesale distributor of a schedule II, III, IV, or V controlled substance; or

(d) An ambulatory surgical center, as defined in section 197.200, RSMo, that distributes such substances for the purpose of providing care in such facility or dispenses controlled substances at the time of discharge from such facility;

(4) "Patient", a person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed;

(5) "Schedule II, III, IV, or V controlled substance", a controlled substance that is listed in schedule II, III, IV, or V of the schedules provided under this chapter or the Federal Controlled Substances Act, 21 U.S.C. Section 812.

195.381. 1. Subject to appropriations, the department of health and senior services shall establish and maintain a program for the monitoring of prescribing and dispensing of all schedule II, III, IV, and V controlled substances except schedule V controlled substances containing any detectable amount of pseudoephedrine that do not require a prescription, by all professionals licensed to prescribe or dispense such substances in this state.

2. Each dispenser shall submit to the department by electronic means information regarding each dispensing of a drug included in subsection 1 of this section. The information required by the department to be submitted for each dispensing may include, but not be limited to:

(1) The dispenser's United States Drug Enforcement Administration registration number;

(2) The date the drug is dispensed or the prescription is filled;

(3) The prescription number, if applicable;

(4) Whether the prescription is new or a refill;

(5) The NDC code for the drug dispensed;

(6) The number of days' supply of the drug dispensed;

(7) The quantity dispensed;

(8) Any identification issued by a state or federal government to the patient, or any other acceptable identification as defined by the department by rule;

(9) The patient's name, address, and date of birth;

(10) The prescriber's United States Drug Enforcement Administration registration number, if applicable;

(11) The date the prescription is issued by the prescriber, if applicable; and

(12) The source of payment for the drug, as defined by regulation promulgated by the department.

3. Each dispenser shall submit the information in accordance with transmission methods and frequency established by the department by regulation; except that, each dispenser shall report at least every thirty days between the first and fifteenth of the month following the month the drug was dispensed.

4. The department may issue a waiver to a dispenser that is unable to submit dispensing information by electronic means. Such waiver may permit the dispenser to submit dispensing information by paper form or other means, provided all information required in subsection 2 of this section is submitted in such alternative format.

195.384. 1. Controlled substance dispensing information submitted to the department shall be confidential and not subject to public disclosure under chapter 610, RSMo, except as provided in subsections 3 to 5 of this section.

2. The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as provided in subsections 3 to 5 of this section.

3. The department shall review the dispensing information and, if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity, and provide dispensing

information required for an investigation.

4. The department may provide data in the drug monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients;

(2) An individual who requests his or her own drug monitoring information in accordance with state law;

(3) The state board of pharmacy;

(4) Any state board charged with regulating a professional that has the authority to prescribe controlled substances that requests data related to a specific professional under the authority of that board;

(5) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing licit drugs based on a specific case or under court order;

(6) The department of social services regarding MO HealthNet participants;

(7) A judge or other judicial authority under a court order;

(8) Personnel of the department of health and senior services for the administration and enforcement of sections 195.378 to 195.399; and

(9) The department of mental health regarding department program recipients receiving medication or medication-related services.

5. The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

6. Nothing in sections 195.378 to 195.399 shall require or obligate a dispenser or prescriber to access or check the information in the drug monitoring program prior to dispensing, prescribing, or administering medications or as part of their professional practice. Dispensers and prescribers shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the drug monitoring program and no lawsuit may be predicated thereon.

195.387. The department is authorized to contract with any other

agency of this state or with a private vendor, as necessary, to ensure the effective operation of the drug monitoring program. Any contractor shall comply with the provisions regarding confidentiality of drug information in section 195.384. Any contractor who knowingly discloses drug monitoring information other than as provided in sections 195.378 to 195.399 or who uses such information in a manner and for a purpose in violation of sections 195.378 to 195.399 is guilty of a class A misdemeanor.

195.390. The department shall promulgate rules setting forth the procedures and methods of implementing sections 195.378 to 195.399 which shall be consistent with federal regulations, if applicable. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

195.393. 1. A dispenser who knowingly fails to submit drug monitoring information to the department as required in sections 195.378 to 195.399 or knowingly submits the incorrect prescription information is guilty of a class A misdemeanor.

2. A person authorized to have drug monitoring information under sections 195.378 to 195.399 who knowingly discloses such information in violation of sections 195.378 to 195.399 or who uses such information in a manner and for a purpose in violation of sections 195.378 to 195.399 is guilty of a class A misdemeanor.

195.396. 1. The department shall implement the following education courses:

(1) An orientation course during the implementation phase of the drug monitoring program established in section 195.381;

(2) A course for persons who are authorized to access the drug monitoring information but who did not participate in the orientation course;

(3) A course for persons who are authorized to access the drug monitoring information but who have violated laws or breached occupational standards involving dispensing, prescribing, and use of substances monitored by the drug monitoring program established in section 195.381. When appropriate, the department shall develop the content of the education courses described in subdivisions (1) to (3) of this subsection.

2. The department shall, when appropriate:

(1) Work with associations for impaired professionals to ensure intervention, treatment, and ongoing monitoring and followup; and

(2) Encourage individual patients who are identified and who have become addicted to substances monitored by the drug monitoring program established in section 195.381 to receive addiction treatment. The department of health and senior services shall consult and coordinate with the department of mental health in developing and implementing patient intervention and referrals.

195.399. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 195.378 to 195.399 shall automatically sunset six years after the effective date of sections 195.378 to 195.399 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 195.378 to 195.399 shall automatically sunset six years after the effective date of the reauthorization of sections 195.378 to 195.399; and

(3) Sections 195.378 to 195.399 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 195.378 to 195.399 is sunset.

195.417. 1. The limits specified in **[**subsection 2 of**]** this section shall not apply to any quantity of such product, mixture, or preparation **which must be** dispensed**, sold, or distributed in a pharmacy** pursuant to a valid prescription **or to any purchase by an individual of a single sales package if that package contains not more than sixty milligrams of pseudoephedrine**.

2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive,

or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine**, phenylpropanolamine,** or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection;

in any total amount greater than nine grams**, without regard to the number of transactions**.

3. **[**All**] For mail order sales or sales from a temporary retail location or sales from stand which is temporary or capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility or located on unimproved real estate, within any thirty-day period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:**

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection; in any total amount greater than seven and five tenths grams, without regard to the number of transactions.

4. Within any twenty-four hour period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in

subdivisions (1) and (2) of this subsection; in any total amount greater than three and six tenths grams without regard to the number of transactions.

5. With the exception of those compounds, mixtures, or preparations which must be offered for sale only from behind the counter in a pharmacy, in offering the products for sale, persons selling packages of any compound, mixture, or preparation containing any detectable quantity of ephedrine**, phenylpropanolamine,** or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, **[**except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician under section 195.017.

4.**] shall place the products such that customers do not have direct access to the products before a sale is made. This placement of product shall be either behind the counter or in a locked cabinet that is located in an area of the facility involved to which customers do not have direct access.**

6. The person selling such compound, mixture, or preparation shall require any person, prior to their purchasing, receiving or otherwise acquiring such compound, mixture, or preparation of such compound, mixture, or preparation, to furnish suitable photo identification that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable.

7. The person selling such compound, mixture, or preparation shall maintain an electronic log of each transaction. Such log shall include the following information:

(1) The name, address, and signature of the purchaser;

(2) The name of the product and the amount of the compound, mixture, or preparation purchased;

(3) The date and time of each purchase; and

(4) The name or initials of the person selling the compound, mixture, or preparation to the purchaser.

8. The seller shall deliver the product directly into the custody of the purchaser.

9. This section shall supersede and preempt any local ordinances or regulations, including any ordinances or regulations enacted by any political

subdivision of the state. This section shall not apply to **[**any products that the state department of health and senior services, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors or to**]** the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

[5. Persons selling and dispensing substances containing any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall maintain logs, documents, and records as specified in section 195.017. Persons selling only compounds, mixtures, or preparations that are excluded from Schedule V in subsection 17 or 18 of section 195.017 shall not be required to maintain such logs, documents, and records. All logs, records, documents, and electronic information maintained for the dispensing of these products shall be open for inspection and copying by municipal, county, and state or federal law enforcement officers whose duty it is to enforce the controlled substances laws of this state or the United States.

6.**]** **10.** Within thirty days of June 15, 2005, all persons who dispense or offer for sale pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

[7. Within thirty days of June 15, 2005, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substance registrant.

8.**]** **11.** Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

[9. The provisions of subsection 2 of this section limiting individuals from purchasing the specified amount in any thirty-day period shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form. However, no person shall purchase, receive, or otherwise acquire

more than nine grams of any compound, mixture, or preparation excluded in subsection 17 or 18 of section 195.017, in a single purchase as provided in subsection 2 of this section.**]**

Section B. Section A of this act shall become effective January 1, 2009.

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