

FIRST REGULAR SESSION

SENATE BILL NO. 31

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0462S.011

AN ACT

To repeal sections 217.720 and 217.722, RSMo, section 195.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.010 as enacted by house bill no. 641, ninety-sixth general assembly, first regular session, and to enact in lieu thereof five new sections relating to crime, with a penalty provision.

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

Section A. Sections 217.720 and 217.722, RSMo, section 195.010 as
2 enacted by senate bill no. 491, ninety-seventh general assembly, second regular
3 session, and section 195.010 as enacted by house bill no. 641, ninety-sixth general
4 assembly, first regular session, RSMo, are repealed and five new sections enacted
5 in lieu thereof, to be known as sections 195.010, 195.010, 217.720, 217.722, and
6 579.010, to read as follows:

195.010. The following words and phrases as used in this chapter and
2 chapter 579, unless the context otherwise requires, mean:

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

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

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

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

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

15 (3) "Agent", an authorized person who acts on behalf of or at the direction
16 of a manufacturer, distributor, or dispenser. The term does not include a common
17 or contract carrier, public warehouseman, or employee of the carrier or
18 warehouseman while acting in the usual and lawful course of the carrier's or
19 warehouseman's business;

20 (4) "Attorney for the state", any prosecuting attorney, circuit attorney, or
21 attorney general authorized to investigate, commence and prosecute an action
22 under this chapter;

23 (5) "Controlled substance", a drug, substance, or immediate precursor in
24 Schedules I through V listed in this chapter. **The term includes an altered**
25 **state of a drug or substance listed in Schedules I through V absorbed**
26 **into the human body;**

27 (6) "Controlled substance analogue", a substance the chemical structure
28 of which is substantially similar to the chemical structure of a controlled
29 substance in Schedule I or II and:

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

34 (b) With respect to a particular individual, which that individual
35 represents or intends to have a stimulant, depressant, or hallucinogenic effect on
36 the central nervous system substantially similar to the stimulant, depressant, or
37 hallucinogenic effect on the central nervous system of a controlled substance
38 included in Schedule I or II. The term does not include a controlled substance;
39 any substance for which there is an approved new drug application; any
40 substance for which an exemption is in effect for investigational use, for a
41 particular person, under Section 505 of the federal Food, Drug and Cosmetic Act
42 (21 U.S.C. Section 355) to the extent conduct with respect to the substance is
43 pursuant to the exemption; or any substance to the extent not intended for
44 human consumption before such an exemption takes effect with respect to the
45 substance;

46 (7) "Counterfeit substance", a controlled substance which, or the container
47 or labeling of which, without authorization, bears the trademark, trade name, or
48 other identifying mark, imprint, number or device, or any likeness thereof, of a

49 manufacturer, distributor, or dispenser other than the person who in fact
50 manufactured, distributed, or dispensed the substance;

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

55 (9) "Dentist", a person authorized by law to practice dentistry in this
56 state;

57 (10) "Depressant or stimulant substance":

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

62 (b) A drug containing any quantity of:

63 a. Amphetamine or any of its isomers;

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

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

68 (c) Lysergic acid diethylamide; or

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

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

78 (12) "Distribute", to deliver other than by administering or dispensing a
79 controlled substance;

80 (13) "Distributor", a person who distributes;

81 (14) "Drug":

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

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

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

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

92 (15) "Drug-dependent person", a person who is using a controlled
93 substance and who is in a state of psychic or physical dependence, or both, arising
94 from the use of such substance on a continuous basis. Drug dependence is
95 characterized by behavioral and other responses which include a strong
96 compulsion to take the substance on a continuous basis in order to experience its
97 psychic effects or to avoid the discomfort caused by its absence;

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

100 (17) "Drug paraphernalia", all equipment, products, substances and
101 materials of any kind which are used, intended for use, or designed for use, in
102 planting, propagating, cultivating, growing, harvesting, manufacturing,
103 compounding, converting, producing, processing, preparing, storing, containing,
104 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human
105 body a controlled substance or an imitation controlled substance in violation of
106 this chapter or chapter 579. It includes, but is not limited to:

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

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

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

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

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

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

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

127 (h) Blenders, bowls, containers, spoons and mixing devices used, intended
128 for use, or designed for use in compounding controlled substances or imitation
129 controlled substances;

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

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

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

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

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

143 b. Water pipes;

144 c. Carburetion tubes and devices;

145 d. Smoking and carburetion masks;

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

149 f. Miniature cocaine spoons and cocaine vials;

150 g. Chamber pipes;

151 h. Carburetor pipes;

152 i. Electric pipes;

153 j. Air-driven pipes;

154 k. Chillums;

155 l. Bonges;

156 m. Ice pipes or chillers;

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

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

162 a. Statements by an owner or by anyone in control of the object concerning
163 its use;

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

167 c. The proximity of the object, in time and space, to a direct violation of
168 this chapter or chapter 579;

169 d. The proximity of the object to controlled substances or imitation
170 controlled substances;

171 e. The existence of any residue of controlled substances or imitation
172 controlled substances on the object;

173 f. Direct or circumstantial evidence of the intent of an owner, or of anyone
174 in control of the object, to deliver it to persons who he or she knows, or should
175 reasonably know, intend to use the object to facilitate a violation of this chapter
176 or chapter 579; the innocence of an owner, or of anyone in control of the object,
177 as to direct violation of this chapter or chapter 579 shall not prevent a finding
178 that the object is intended for use, or designed for use as drug paraphernalia;

179 g. Instructions, oral or written, provided with the object concerning its
180 use;

181 h. Descriptive materials accompanying the object which explain or depict
182 its use;

183 i. National or local advertising concerning its use;

184 j. The manner in which the object is displayed for sale;

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

188 l. Direct or circumstantial evidence of the ratio of sales of the object to the
189 total sales of the business enterprise;

190 m. The existence and scope of legitimate uses for the object in the
191 community;

192 n. Expert testimony concerning its use;

193 o. The quantity, form or packaging of the product, substance or material
194 in relation to the quantity, form or packaging associated with any legitimate use
195 for the product, substance or material;

196 (18) "Federal narcotic laws", the laws of the United States relating to
197 controlled substances;

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

206 (20) "Immediate precursor", a substance which:

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

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

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

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

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

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

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

228 (d) Prior convictions, if any, of an owner, or anyone in control of the

229 object, under state or federal law related to controlled substances or fraud;

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

231 (f) Whether the consideration tendered in exchange for the noncontrolled
232 substance substantially exceeds the reasonable value of the substance considering
233 the actual chemical composition of the substance and, where applicable, the price
234 at which over-the-counter substances of like chemical composition sell. An
235 imitation controlled substance does not include a placebo or registered
236 investigational drug either of which was manufactured, distributed, possessed or
237 delivered in the ordinary course of professional practice or research;

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

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

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

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

257 (24) "Marijuana", all parts of the plant genus *Cannabis* in any species or
258 form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*,
259 *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether
260 growing or not, the seeds thereof, the resin extracted from any part of the plant;
261 and every compound, manufacture, salt, derivative, mixture, or preparation of the
262 plant, its seeds or resin. It does not include the mature stalks of the plant, fiber
263 produced from the stalks, oil or cake made from the seeds of the plant, any other
264 compound, manufacture, salt, derivative, mixture or preparation of the mature

265 stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized
266 seed of the plant which is incapable of germination;

267 (25) "Methamphetamine precursor drug", any drug containing ephedrine,
268 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or
269 salts of optical isomers;

270 (26) "Narcotic drug", any of the following, whether produced directly or
271 indirectly by extraction from substances of vegetable origin, or independently by
272 means of chemical synthesis, or by a combination of extraction and chemical
273 analysis:

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

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

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

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

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

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

290 (28) "Opiate", any substance having an addiction-forming or
291 addiction-sustaining liability similar to morphine or being capable of conversion
292 into a drug having addiction-forming or addiction-sustaining liability. The term
293 includes its racemic and levorotatory forms. It does not include, unless
294 specifically controlled under section 195.017, the dextrorotatory isomer of
295 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

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

298 (30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144
299 of a drug other than a controlled substance;

300 (31) "Person", an individual, corporation, government or governmental

301 subdivision or agency, business trust, estate, trust, partnership, joint venture,
302 association, or any other legal or commercial entity;

303 (32) "Pharmacist", a licensed pharmacist as defined by the laws of this
304 state, and where the context so requires, the owner of a store or other place of
305 business where controlled substances are compounded or dispensed by a licensed
306 pharmacist; but nothing in this chapter shall be construed as conferring on a
307 person who is not registered nor licensed as a pharmacist any authority, right or
308 privilege that is not granted to him by the pharmacy laws of this state;

309 (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after
310 mowing;

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

321 (35) "Practitioner", a physician, dentist, optometrist, podiatrist,
322 veterinarian, scientific investigator, pharmacy, hospital or other person licensed,
323 registered or otherwise permitted by this state to distribute, dispense, conduct
324 research with respect to or administer or to use in teaching or chemical analysis,
325 a controlled substance in the course of professional practice or research in this
326 state, or a pharmacy, hospital or other institution licensed, registered, or
327 otherwise permitted to distribute, dispense, conduct research with respect to or
328 administer a controlled substance in the course of professional practice or
329 research;

330 (36) "Production", includes the manufacture, planting, cultivation,
331 growing, or harvesting of drug paraphernalia or of a controlled substance or an
332 imitation controlled substance;

333 (37) "Registry number", the number assigned to each person registered
334 under the federal controlled substances laws;

335 (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each
336 such transaction made by any person, whether as principal, proprietor, agent,

337 servant or employee;

338 (39) "State" when applied to a part of the United States, includes any
339 state, district, commonwealth, territory, insular possession thereof, and any area
340 subject to the legal authority of the United States of America;

341 (40) "Synthetic cannabinoid", includes unless specifically excepted or
342 unless listed in another schedule, any natural or synthetic material, compound,
343 mixture, or preparation that contains any quantity of a substance that is a
344 cannabinoid receptor agonist, including but not limited to any substance listed
345 in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any
346 analogues; homologues; isomers, whether optical, positional, or geometric; esters;
347 ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of
348 the isomers, esters, ethers, or salts is possible within the specific chemical
349 designation, however, it shall not include any approved pharmaceutical
350 authorized by the United States Food and Drug Administration;

351 (41) "Ultimate user", a person who lawfully possesses a controlled
352 substance or an imitation controlled substance for his or her own use or for the
353 use of a member of his or her household or immediate family, regardless of
354 whether they live in the same household, or for administering to an animal owned
355 by him or by a member of his or her household. For purposes of this section, the
356 phrase "immediate family" means a husband, wife, parent, child, sibling,
357 stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild;

358 (42) "Wholesaler", a person who supplies drug paraphernalia or controlled
359 substances or imitation controlled substances that he himself has not produced
360 or prepared, on official written orders, but not on prescriptions.

195.010. The following words and phrases as used in sections 195.005 to
2 195.425, unless the context otherwise requires, mean:

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

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

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

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

13 the practitioner;

14 (3) "Agent", an authorized person who acts on behalf of or at the direction
15 of a manufacturer, distributor, or dispenser. The term does not include a common
16 or contract carrier, public warehouseman, or employee of the carrier or
17 warehouseman while acting in the usual and lawful course of the carrier's or
18 warehouseman's business;

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

22 (5) "Controlled substance", a drug, substance, or immediate precursor in
23 Schedules I through V listed in sections 195.005 to 195.425. **The term includes**
24 **an altered state of a drug or substance listed in Schedules I through V**
25 **absorbed into the human body;**

26 (6) "Controlled substance analogue", a substance the chemical structure
27 of which is substantially similar to the chemical structure of a controlled
28 substance in Schedule I or II and:

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

33 (b) With respect to a particular individual, which that individual
34 represents or intends to have a stimulant, depressant, or hallucinogenic effect on
35 the central nervous system substantially similar to the stimulant, depressant, or
36 hallucinogenic effect on the central nervous system of a controlled substance
37 included in Schedule I or II. The term does not include a controlled substance;
38 any substance for which there is an approved new drug application; any
39 substance for which an exemption is in effect for investigational use, for a
40 particular person, under Section 505 of the federal Food, Drug and Cosmetic Act
41 (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant
42 to the exemption; or any substance to the extent not intended for human
43 consumption before such an exemption takes effect with respect to the substance;

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

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

53 (9) "Dentist", a person authorized by law to practice dentistry in this
54 state;

55 (10) "Depressant or stimulant substance":

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

60 (b) A drug containing any quantity of:

61 a. Amphetamine or any of its isomers;

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

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

66 (c) Lysergic acid diethylamide; or

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

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

76 (12) "Distribute", to deliver other than by administering or dispensing a
77 controlled substance;

78 (13) "Distributor", a person who distributes;

79 (14) "Drug":

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

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

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

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

90 (15) "Drug-dependent person", a person who is using a controlled
91 substance and who is in a state of psychic or physical dependence, or both, arising
92 from the use of such substance on a continuous basis. Drug dependence is
93 characterized by behavioral and other responses which include a strong
94 compulsion to take the substance on a continuous basis in order to experience its
95 psychic effects or to avoid the discomfort caused by its absence;

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

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

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

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

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

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

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

119 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol,
120 mannite, dextrose and lactose, used, intended for use, or designed for use in

121 cutting controlled substances or imitation controlled substances;

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

125 (h) Blenders, bowls, containers, spoons and mixing devices used, intended
126 for use, or designed for use in compounding controlled substances or imitation
127 controlled substances;

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

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

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

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

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

141 b. Water pipes;

142 c. Carburetion tubes and devices;

143 d. Smoking and carburetion masks;

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

147 f. Miniature cocaine spoons and cocaine vials;

148 g. Chamber pipes;

149 h. Carburetor pipes;

150 i. Electric pipes;

151 j. Air-driven pipes;

152 k. Chillums;

153 l. Bongs;

154 m. Ice pipes or chillers;

155 (m) Substances used, intended for use, or designed for use in the
156 manufacture of a controlled substance; In determining whether an object, product,

157 substance or material is drug paraphernalia, a court or other authority should
158 consider, in addition to all other logically relevant factors, the following:

159 a. Statements by an owner or by anyone in control of the object concerning
160 its use;

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

164 c. The proximity of the object, in time and space, to a direct violation of
165 sections 195.005 to 195.425;

166 d. The proximity of the object to controlled substances or imitation
167 controlled substances;

168 e. The existence of any residue of controlled substances or imitation
169 controlled substances on the object;

170 f. Direct or circumstantial evidence of the intent of an owner, or of anyone
171 in control of the object, to deliver it to persons who he knows, or should
172 reasonably know, intend to use the object to facilitate a violation of sections
173 195.005 to 195.425; the innocence of an owner, or of anyone in control of the
174 object, as to direct violation of sections 195.005 to 195.425 shall not prevent a
175 finding that the object is intended for use, or designed for use as drug
176 paraphernalia;

177 g. Instructions, oral or written, provided with the object concerning its
178 use;

179 h. Descriptive materials accompanying the object which explain or depict
180 its use;

181 i. National or local advertising concerning its use;

182 j. The manner in which the object is displayed for sale;

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

186 l. Direct or circumstantial evidence of the ratio of sales of the object to the
187 total sales of the business enterprise;

188 m. The existence and scope of legitimate uses for the object in the
189 community;

190 n. Expert testimony concerning its use;

191 o. The quantity, form or packaging of the product, substance or material
192 in relation to the quantity, form or packaging associated with any legitimate use

193 for the product, substance or material;

194 (18) "Federal narcotic laws", the laws of the United States relating to
195 controlled substances;

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

204 (20) "Immediate precursor", a substance which:

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

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

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

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

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

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

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

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

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

229 (f) Whether the consideration tendered in exchange for the noncontrolled
230 substance substantially exceeds the reasonable value of the substance considering
231 the actual chemical composition of the substance and, where applicable, the price
232 at which over-the-counter substances of like chemical composition sell. An
233 imitation controlled substance does not include a placebo or registered
234 investigational drug either of which was manufactured, distributed, possessed or
235 delivered in the ordinary course of professional practice or research;

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

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

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

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

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

265 (25) "Methamphetamine precursor drug", any drug containing ephedrine,
266 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or
267 salts of optical isomers;

268 (26) "Narcotic drug", any of the following, whether produced directly or
269 indirectly by extraction from substances of vegetable origin, or independently by
270 means of chemical synthesis, or by a combination of extraction and chemical
271 analysis:

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

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

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

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

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

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

288 (28) "Opiate", any substance having an addiction-forming or
289 addiction-sustaining liability similar to morphine or being capable of conversion
290 into a drug having addiction-forming or addiction-sustaining liability. The term
291 includes its racemic and levorotatory forms. It does not include, unless
292 specifically controlled under section 195.017, the dextrorotatory isomer of
293 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

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

296 (30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144
297 of a drug other than a controlled substance;

298 (31) "Person", an individual, corporation, government or governmental
299 subdivision or agency, business trust, estate, trust, partnership, joint venture,
300 association, or any other legal or commercial entity;

301 (32) "Pharmacist", a licensed pharmacist as defined by the laws of this
302 state, and where the context so requires, the owner of a store or other place of
303 business where controlled substances are compounded or dispensed by a licensed
304 pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as
305 conferring on a person who is not registered nor licensed as a pharmacist any
306 authority, right or privilege that is not granted to him by the pharmacy laws of
307 this state;

308 (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after
309 mowing;

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

320 (35) "Practitioner", a physician, dentist, optometrist, podiatrist,
321 veterinarian, scientific investigator, pharmacy, hospital or other person licensed,
322 registered or otherwise permitted by this state to distribute, dispense, conduct
323 research with respect to or administer or to use in teaching or chemical analysis,
324 a controlled substance in the course of professional practice or research in this
325 state, or a pharmacy, hospital or other institution licensed, registered, or
326 otherwise permitted to distribute, dispense, conduct research with respect to or
327 administer a controlled substance in the course of professional practice or
328 research;

329 (36) "Production", includes the manufacture, planting, cultivation,
330 growing, or harvesting of drug paraphernalia or of a controlled substance or an
331 imitation controlled substance;

332 (37) "Registry number", the number assigned to each person registered
333 under the federal controlled substances laws;

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

337 (39) "State" when applied to a part of the United States, includes any
338 state, district, commonwealth, territory, insular possession thereof, and any area
339 subject to the legal authority of the United States of America;

340 (40) "Synthetic cannabinoid", includes unless specifically excepted or
341 unless listed in another schedule, any natural or synthetic material, compound,
342 mixture, or preparation that contains any quantity of a substance that is a
343 cannabinoid receptor agonist, including but not limited to any substance listed
344 in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any
345 analogues, homologues; isomers, whether optical, positional, or geometric; esters;
346 ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of
347 the isomers, esters, ethers, or salts is possible within the specific chemical
348 designation, however, it shall not include any approved pharmaceutical
349 authorized by the United States Food and Drug Administration;

350 (41) "Ultimate user", a person who lawfully possesses a controlled
351 substance or an imitation controlled substance for his own use or for the use of
352 a member of his household or for administering to an animal owned by him or by
353 a member of his household;

354 (42) "Wholesaler", a person who supplies drug paraphernalia or controlled
355 substances or imitation controlled substances that he himself has not produced
356 or prepared, on official written orders, but not on prescriptions.

217.720. 1. At any time during release on parole or conditional release
2 the board [may] **shall** issue a warrant for the arrest of a released offender for
3 violation of any of the conditions of parole or conditional release. The warrant
4 shall authorize any law enforcement officer to return the offender to the actual
5 custody of the correctional center from which the offender was released, or to any
6 other suitable facility designated by the board. If any parole or probation officer
7 has probable cause to believe that such offender has violated a condition of parole
8 or conditional release, the probation or parole officer [may] **shall** issue a warrant
9 for the arrest of the offender. The probation or parole officer may effect the
10 arrest or may deputize any officer with the power of arrest to do so by giving the
11 officer a copy of the warrant which shall outline the circumstances of the alleged
12 violation and contain the statement that the offender has, in the judgment of the
13 probation or parole officer, violated conditions of parole or conditional
14 release. The warrant delivered with the offender by the arresting officer to the
15 official in charge of any facility designated by the board to which the offender is
16 brought shall be sufficient legal authority for detaining the offender. After the

17 arrest the parole or probation officer shall present to the detaining authorities a
18 similar statement of the circumstances of violation. Pending hearing as
19 hereinafter provided, upon any charge of violation, the offender shall remain in
20 custody or incarcerated without consideration of bail.

21 2. If the offender is arrested under the authority granted in subsection 1
22 of this section, the offender shall have the right to a preliminary hearing on the
23 violation charged unless the offender waives such hearing. Upon such arrest and
24 detention, the parole or probation officer shall immediately notify the board and
25 shall submit in writing a report showing in what manner the offender has
26 violated the conditions of his parole or conditional release. The board shall order
27 the offender discharged from such facility, require as a condition of parole or
28 conditional release the placement of the offender in a treatment center operated
29 by the department of corrections, or shall cause the offender to be brought before
30 it for a hearing on the violation charged, under such rules and regulations as the
31 board may adopt. If the violation is established and found, the board may
32 continue or revoke the parole or conditional release, or enter such other order as
33 it may see fit. If no violation is established and found, then the parole or
34 conditional release shall continue. If at any time during release on parole or
35 conditional release the offender is arrested for a crime which later leads to
36 conviction, and sentence is then served outside the Missouri department of
37 corrections, the board shall determine what part, if any, of the time from the date
38 of arrest until completion of the sentence imposed is counted as time served
39 under the sentence from which the offender was paroled or conditionally released.

40 3. An offender for whose return a warrant has been issued by the board
41 shall, if it is found that the warrant cannot be served, be deemed to be a fugitive
42 from justice or to have fled from justice. If it shall appear that the offender has
43 violated the provisions and conditions of his parole or conditional release, the
44 board shall determine whether the time from the issuing date of the warrant to
45 the date of his arrest on the warrant, or continuance on parole or conditional
46 release shall be counted as time served under the sentence. In all other cases,
47 time served on parole or conditional release shall be counted as time served under
48 the sentence.

49 4. At any time during parole or probation, the board may issue a warrant
50 for the arrest of any person from another jurisdiction, the visitation and
51 supervision of whom the board has undertaken pursuant to the provisions of the
52 interstate compact for the supervision of parolees and probationers authorized in

53 section 217.810, for violation of any of the conditions of release, or a notice to
54 appear to answer a charge of violation. The notice shall be served personally
55 upon the person. The warrant shall authorize any law enforcement officer to
56 return the offender to any suitable detention facility designated by the
57 board. Any parole or probation officer may arrest such person without a warrant,
58 or may deputize any other officer with power of arrest to do so by issuing a
59 written statement setting forth that the defendant has, in the judgment of the
60 parole or probation officer, violated the conditions of his release. The written
61 statement delivered with the person by the arresting officer to the official in
62 charge of the detention facility to which the person is brought shall be sufficient
63 legal authority for detaining him. After making an arrest the parole or probation
64 officer shall present to the detaining authorities a similar statement of the
65 circumstances of violation.

217.722. 1. If any probation officer has probable cause to believe that the
2 person on probation has violated a condition of probation, the probation officer
3 **[may] shall** issue a warrant for the arrest of the person on probation. The officer
4 may effect the arrest or may deputize any other officer with the power of arrest
5 to do so by giving the officer a copy of the warrant which will outline the
6 circumstances of the alleged violation and contain the statement that the person
7 on probation has, in the judgment of the probation officer, violated the conditions
8 of probation. The warrant delivered with the offender by the arresting officer to
9 the official in charge of any jail or other detention facility shall be sufficient
10 authority for detaining the person on probation pending a preliminary hearing
11 on the alleged violation. Other provisions of law relating to release on bail of
12 persons charged with criminal offenses shall be applicable to persons detained on
13 alleged probation violations.

14 2. Any person on probation arrested under the authority granted in
15 subsection 1 of this section shall have the right to a preliminary hearing on the
16 violation charged as long as the person on probation remains in custody or unless
17 the offender waives such hearing. The person on probation shall be notified
18 immediately in writing of the alleged probation violation. If arrested in the
19 jurisdiction of the sentencing court, and the court which placed the person on
20 probation is immediately available, the preliminary hearing shall be heard by the
21 sentencing court. Otherwise, the person on probation shall be taken before a
22 judge or associate circuit judge in the county of the alleged violation or arrest
23 having original jurisdiction to try criminal offenses or before an impartial

24 member of the staff of the Missouri board of probation and parole, and the
25 preliminary hearing shall be held as soon as possible after the arrest. Such
26 preliminary hearings shall be conducted as provided by rule of court or by rules
27 of the Missouri board of probation and parole. If it appears that there is probable
28 cause to believe that the person on probation has violated a condition of
29 probation, or if the person on probation waives the preliminary hearing, the judge
30 or associate circuit judge, or member of the staff of the Missouri board of
31 probation and parole shall order the person on probation held for further
32 proceedings in the sentencing court. If probable cause is not found, the court
33 shall not be barred from holding a hearing on the question of the alleged violation
34 of a condition of probation nor from ordering the person on probation to be
35 present at such a hearing.

36 3. Upon such arrest and detention, the probation officer shall immediately
37 notify the sentencing court and shall submit to the court a written report showing
38 in what manner the person on probation has violated the conditions of
39 probation. Thereupon, or upon arrest by warrant, the court shall cause the
40 person on probation to be brought before it without unnecessary delay for a
41 hearing on the violation charged. Revocation hearings shall be conducted as
42 provided by rule of court.

**579.010. 1. A person commits the offense of ingesting a
2 controlled substance if he or she intentionally ingests, inhales, or
3 otherwise takes into the body any controlled substance, unless the
4 substance was obtained directly from, or pursuant to, a valid
5 prescription or order of a practitioner while acting in the course of a
6 practitioner's professional practice.**

7 **2. The offense of ingesting a controlled substance is a Class A
8 misdemeanor.**

9 **3. The venue for a violation of this section exists in either the
10 jurisdiction in which the controlled substance was ingested, inhaled, or
11 otherwise taken into the body or the jurisdiction in which the
12 controlled substance was detected in the body of the accused.**

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