

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 532, 806 & 633

AN ACT

To repeal sections 195.211, 195.222, 195.223, 195.233, 195.420, 195.509, 217.362, 311.720, 542.276, 544.376, 568.045 and 569.085, RSMo 1994, and sections 195.010, 195.040, 195.060, 195.100, 195.197, 195.400, 195.410, and 570.030, RSMo Supp. 1997, and to enact in lieu thereof twenty-six new sections for the purpose of addressing the controlled substances problem, with penalty provisions.

---

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

Section A. Sections 195.211, 195.222, 195.223, 195.233, 195.420, 195.509, 217.362, 311.720, 542.276, 544.376, 568.045 and 569.085, RSMo 1994, and sections 195.010, 195.040, 195.060, 195.100, 195.197, 195.400, 195.410, and 570.030, RSMo Supp. 1997, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 195.010, 195.040, 195.060, 195.100, 195.197, 195.211, 195.219, 195.222, 195.223, 195.233, 195.400, 195.410, 195.420, 195.507, 195.509, 217.362, 311.720, 542.276, 544.376, 568.045, 570.030, 1, 2, 3, 4 and 5, 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) "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 or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "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) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in this sections

195.005 to 195.425;

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

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

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

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

(17) "Drug paraphernalia", all equipment, products 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. Bonges;
- m. Ice pipes or chillers;

In determining whether an object 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;

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

(19) "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) "Immediate precursor", a substance which:

(a) The state department of health 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) "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 noncontrolled substance that was initially introduced in commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate. Furthermore, 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) "Laboratory", a laboratory approved by the department of health 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) "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 [by an individual for his own use] 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) "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) "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;

(26) "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;

(27) "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);

(28) "Opium poppy", the plant of the species *Papaver*

somniferum L., except its seeds;

(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;

(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;

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

(32) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and [illegal] 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;

(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;

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

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

(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;

(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;

(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;

(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.

195.040. 1. No registration shall be issued under section 195.030 unless and until the applicant therefor has furnished proof satisfactory to the department of health:

(1) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character;

(2) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

2. No registration shall be granted to any person who has within [five] two years been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any misdemeanor offense or within seven years for any felony offense related to controlled substances. No registration shall be granted to any person who is abusing controlled

substances.

3. The department of health shall register an applicant to manufacture, distribute or dispense controlled substances unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of an applicant under any federal or state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material information in any application filed under sections 195.005 to 195.425;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense narcotics or controlled dangerous drugs as authorized by federal law; and

(7) Any other factors relevant to and consistent with the public health and safety.

4. Registration does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or

II other than those specified in the registration.

5. Practitioners shall be registered to dispense any controlled substance or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The department of health need not require separate registration under sections 195.005 to 195.425 for practitioners engaging in research with nonnarcotic substances in Schedules II through V where the registrant is already registered under sections 195.005 to 195.425 in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the department of health evidence of that federal registration.

6. Compliance by manufacturers and distributors with the provisions of federal law respecting registration (excluding fees) shall entitle them to be registered under sections 195.005 to 195.425.

7. A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department of health upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under sections 195.005 to 195.425;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance;

(3) Has had his federal registration to manufacture, distribute or dispense suspended or revoked;

(4) Has violated any federal controlled substances statute or regulation, or any provision of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425; or

(5) Has had the registrant's professional license to practice suspended or revoked.

8. The department of health may warn or censure a registrant; limit a registration to particular controlled substances or schedules of controlled substances; limit revocation or suspension of a registration to a particular controlled substance with respect to which grounds for revocation or suspension exist; restrict or limit a registration under such terms and conditions as the department of health considers appropriate for a period of five years; suspend or revoke a registration for a period not to exceed five years; or deny an application for registration. In any order of revocation, the department of health may provide that the registrant may not apply for a new registration for a period of time ranging from one to five years following the date of the order of revocation. All stay orders shall toll this time period. Any registration placed under a limitation or restriction by the department of health shall be termed "under probation".

9. If the department of health suspends or revokes a

registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal by such agency and held pending final disposition of the case. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

10. The department of health may, upon review, terminate any restriction or limitation previously imposed upon a registration by the department of health if the registrant has remained in compliance with the imposed restrictions or limitations and local, state and federal laws since the time the restriction or limitations were imposed.

11. The department of health shall promptly notify the Drug Enforcement Administration, United States Department of Justice, or its successor agency, of all orders suspending or revoking registration and all forfeitures of controlled substances.

[11.] 12. If after first providing the registrant an opportunity for an informal conference, the department of health proposes to deny, suspend, restrict, limit or revoke a registration or refuse a renewal of registration, the department of health shall serve upon the applicant or registrant written

notice of the proposed action to be taken on the application or registration. The notice shall contain a statement of the type of discipline proposed, the basis therefor, the date such action shall go into effect and a statement that the registrant shall have thirty days to request in writing a hearing before the administrative hearing commission. If no written request for a hearing is received by the department of health within thirty days of the applicant's or registrant's receipt of the notice, the proposed discipline shall take effect thirty-one days from the date the original notice was received by the applicant or registrant. If the registrant or applicant makes a written request for a hearing, the department of health shall file a complaint with the administrative hearing commission within sixty days of receipt of the written request for a hearing. The complaint shall comply with the laws and regulations for actions brought before the administrative hearing commission. The department of health may issue letters of censure or warning and may enter into agreements with a registrant or applicant which restrict or limit a registration without formal notice or hearing.

[12.] 13. The department of health may suspend any registration simultaneously with the institution of proceedings under subsection 7 of this section if the department of health finds that there is imminent danger to the public health or safety which warrants this action. The suspension shall continue

in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department of health, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

195.060. 1. Except as provided in subsection 3 of this section, a pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription[, as defined by regulation by the department of health, of an authorized] of a practitioner as authorized by statute, provided that the controlled substances listed in Schedule V may be sold without prescription [but only] in accordance with [federal] regulations of the department of health. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the registry number under the federal controlled substances laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible



for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in Schedule I or II shall be filled more than six months after the date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed by the practitioner.

2. The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or pharmacist, but only on an official written order.

3. A pharmacist, in good faith, may sell and dispense, any Schedule II drug or drugs to any person, in emergency situations as defined by rule of the department of health upon an oral prescription by an authorized practitioner[, provided such person shall furnish the pharmacist with a written prescription within seventy-two hours, containing the date, name and address prescribing same and their registry number under the federal narcotic laws and bearing the full name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed; provided the drug or drugs prescribed by such oral prescription have been listed by the director of the department of health as provided for in section 195.195. If the oral prescription is for an animal, it shall state the species of the

animal for which the drug is prescribed. The person filling the oral prescription shall write the date of filling, and his own signature on the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled, for a period of two years so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of sections 195.005 to 195.425].

4. It shall be unlawful for controlled substances to be promoted or advertised for use or sale, provided that this subsection shall not prohibit such activity by a manufacturer, wholesaler, or their agents directed to a physician, pharmacist or other practitioner.

5. Except where a bona fide physician-patient-pharmacist relationship exists, prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate user or agent by mail or other common carrier.

195.100. 1. It shall be unlawful to distribute any controlled substance in a commercial container unless such container bears a label containing an identifying symbol for such substance in accordance with federal laws.

2. It shall be unlawful for any manufacturer of any controlled substance to distribute such substance unless the labeling thereof conforms to the requirements of federal law and contains the identifying symbol required in subsection 1 of this section.

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a wholesaler sells or dispenses a controlled substance in a package prepared by him, he shall securely affix to each package in which that drug is contained, a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person except a pharmacist for the purpose of filling a prescription under sections 195.005 to 195.425, shall alter, deface, or remove any label so affixed.

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, dentist, podiatrist or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name and address of the [pharmacist] pharmacy or practitioner for whom he is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name[, ] of the physician, dentist, podiatrist or veterinarian[, ] by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

195.197. The department of health shall cooperate with federal and other state agencies including the board of pharmacy in discharging its responsibilities concerning traffic in controlled substances, narcotic or dangerous drugs and in suppressing the abuse of controlled substances. To this end, it is authorized to:

(1) Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels;

(3) Provide information to distributors and retailers to help prevent the distribution or diversion of products or substances used in the illicit manufacture of controlled substances.

195.211. 1. Except as authorized by sections 195.005 to 195.425 and except as provided in section 195.222, it is unlawful for any person to distribute, deliver, manufacture, produce or attempt to distribute, deliver, manufacture or produce a controlled substance or to possess with intent to distribute, deliver, manufacture, or produce a controlled substance.

2. Any person who violates or attempts to violate this section with respect to any controlled substance except five grams or less of marijuana is guilty of a class B felony.

3. Any person who violates this section with respect to distributing or delivering not more than five grams of marijuana is guilty of a class C felony.

195.219. 1. A person commits the crime of unlawful endangerment of property if, while engaged in or as a part of the enterprise for the production of a controlled substance, he protects or attempts to protect the production of the controlled substance by creating, setting up, building, erecting or using any device or weapon which causes or is intended to cause damage to the property of, or injury to, another person.

2. Unlawful endangerment of property is a class C felony, unless there is physical injury to a person whereby the offense is a class B felony, or there is serious physical injury to a person whereby the offense is a class A felony.

195.222. 1. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture or substance containing a detectable amount of heroin. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

2. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than one hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than one hundred fifty grams but less than four hundred fifty grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is four hundred fifty grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

3. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than two grams of a mixture or substance described in subsection 2 of this section which contains cocaine base. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than two grams but less than six grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is six grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

4. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than five hundred milligrams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than five hundred milligrams but less than one gram the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is one gram or more the person

shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

5. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture or substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

6. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than four grams of phencyclidine. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than four grams but less than twelve grams the person shall be sentenced to the



authorized term of imprisonment for a class A felony;

(2) If the quantity involved is twelve grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

7. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty kilograms of a mixture or substance containing marijuana. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty kilograms but less than one hundred kilograms the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is one hundred kilograms or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

8. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than [one hundred fifty] thirty grams of any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central

nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than [one hundred fifty] thirty grams but less than [four hundred fifty] ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is [four hundred fifty] ninety grams or more, or if the location of the offense was within two thousand feet of a school or public housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests, the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

195.223. 1. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty grams of a mixture or substance containing a

detectable amount of heroin. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more the person shall be guilty of a class A felony.

2. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than one hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than one hundred fifty grams but less than four hundred fifty grams the person shall be guilty of a class B felony;

(2) If the quantity involved is four hundred fifty grams or more the person shall be guilty of a class A felony.

3. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than two grams of a mixture or substance described in subsection 2 of this section which contains cocaine base. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than two grams but less than six grams the person shall be guilty of a class B felony;

(2) If the quantity involved is six grams or more the person shall be guilty of a class A felony.

4. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than five hundred milligrams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than five hundred milligrams but less than one gram the person shall be guilty of a class B felony;

(2) If the quantity involved is one gram or more the person shall be guilty of a class A felony.

5. A person commits the crime of trafficking drugs in the

second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty grams of a mixture or substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more the person shall be guilty of a class A felony.

6. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than four grams of phencyclidine. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than four grams but less than twelve grams the person shall be guilty of a class B felony;

(2) If the quantity involved is twelve grams or more the person shall be guilty of a class A felony.

7. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or

attempts to purchase, or brings into this state more than thirty kilograms or more of a mixture or substance containing marijuana. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty kilograms but less than one hundred kilograms the person shall be guilty of a class B felony;

(2) If the quantity involved is one hundred kilograms or more the person shall be guilty of a class A felony.

8. A person commits the class A felony of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than five hundred marijuana plants.

9. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than [one hundred fifty] thirty grams of any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, isomers and salts of its isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than [one hundred fifty] thirty grams but less than [four hundred fifty] ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is [four hundred fifty grams or more] ninety grams or more but less than four hundred fifty grams, the person shall be guilty of a class A felony;

(3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty of a class A felony and the term of imprisonment shall be served without probation or parole.

195.233. 1. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425.

2. A person who violates this section is guilty of a class A misdemeanor, unless the person uses, or possesses with intent to use, the paraphernalia in combination with each other to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues in which case the violation of this section is a class D felony.

195.400. 1. As used in sections 195.400 to 195.425 the term "person" means any individual, corporation, government or

governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

2. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person shall submit to the department of health a report, as prescribed by the department of health, of all such transactions:

- (1) Anthranilic acid, its esters and its salts;
- (2) Benzyl cyanide;
- (3) Ergotamine and its salts;
- (4) Ergonovine and its salts;
- (5) N-Acetylanthranilic acid, its esters and its salts;
- (6) Phenylacetic acid, its esters and its salts;
- (7) Piperidine and its salts;
- (8) 3,4,-Methylenedioxyphenyl-2-propanone;
- (9) Acetic anhydride;
- (10) Acetone;
- (11) Benzyl Chloride;
- (12) Ethyl ether;
- (13) Hydriodic acid;
- (14) Potassium permanganate;
- (15) 2-Butanone (or Methyl Ethyl Ketone or MEK);
- (16) Toluene;
- (17) Ephedrine, its salts, optical isomers, and salts of optical isomers;



(18) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;

(19) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;

(20) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;

(21) Methylamine and its salts;

(22) Ethylamine and its salts;

(23) [Propionic] Propionic anhydride;

(24) [Insosafrole (Isosafrole)] Isosafrole;

(25) Safrole;

(26) Piperonal;

(27) N-Methylephedrine, its salts, optical isomers and salts of optical isomers;

(28) N-Methylpseudoephedrine, its salts, optical isomers and salts of optical isomers;

(29) Benzaldehyde;

(30) Nitroethane;

(31) [Acetic anhydride];

(32)] Methyl Isobutyl Ketone (MIBK);

[(33) Hydriotic acid] (32) Sulfuric acid;

(33) Iodine;

(34) Red phosphorous.

3. The chemicals listed or to be listed in the schedule in subsection 2 of this section are included by whatever official,

common, usual, chemical, or trade name designated.

4. The department of health by rule or regulation may add substances to or delete substances from subsection 2 of this section in the manner prescribed under section 195.017, if such substance is a component of or may be used to produce a controlled substance.

5. Any manufacturer, wholesaler, retailer or other person shall, prior to selling, transferring, or otherwise furnishing any substance listed in subsection 2 of this section to a person within this state, require such person to give proper identification. For the purposes of this section "proper identification" means:

(1) A motor vehicle operator's license or other official state-issued identification which contains a photograph of the person and includes the residential or mailing address of the person, other than a post office box number;

(2) The motor vehicle license number of any motor vehicle operated by the person;

(3) A letter of authorization from the business to which any of the substances listed in subsection 2 of this section are being transferred, which shall include the address of the business and business license number if the business is required to have a license number;

(4) A full description of how the substance is to be used;  
and

(5) The signature of the person to whom such substances are transferred. The person selling, transferring, or otherwise furnishing any substance listed in subsection 2 of this section shall affix his signature, to the document which evidences that a sale or transfer has been made, as a witness to the signature and proper identification of the person purchasing such substance.

6. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in subsection 2 of this section to a person shall, not less than twenty-one days prior to the delivery of the substance, submit a report of the transaction as prescribed by the department of health, which shall include the proper identification information. The department of health may allow the submission of such reports on a monthly basis with respect to repeated, regular transactions between a person who furnishes such substances and the person to whom such substances are delivered, if the department determines that either:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the person to whom such substance is delivered; or

(2) The person to whom such substance is delivered has established a record of utilization of the substance for lawful purposes.

7. This section shall not apply to any of the following:

(1) Any pharmacist, pharmacy, or other authorized person who sells or furnishes a substance listed in subsection 2 of this section upon the prescription or order of a physician, dentist, podiatrist or veterinarian;

(2) Any physician, optometrist, dentist, podiatrist or veterinarian who administers, dispenses or furnishes a substance listed in subsection 2 of this section to his patients within the scope of his professional practice. Such administration or dispensing shall be recorded in the patient record;

(3) Any sale, transfer, furnishing or receipt of any drug which contains any substance listed in subsection 2 of this section and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug and Cosmetic Act of regulations adopted thereunder.

8. (1) Any violation of subsection 5 of this section shall be a class D felony.

(2) Any person subject to subsection 6 of this section who does not submit a report as required or who knowingly submits a report with false or fictitious information shall be guilty of a class D felony and subject to a fine not exceeding ten thousand dollars.

(3) Any person who is found guilty a second time of not submitting a report as required in subsection 6 of this section or who knowingly submits such a report with false or fictitious information shall be guilty of a class C felony and subject to a

fine not exceeding one hundred thousand dollars.

195.410. 1. No registration shall be issued under section 195.405 unless and until the applicant for such registration has furnished proof satisfactory to the department of health that:

(1) The applicant is of good moral character or, if the applicant is an association or corporation, that the managing officers are of good moral character; and

(2) The applicant is properly equipped as to land, building, and paraphernalia to carry on the business described in his application.

2. No registration shall be granted to any person who has [within five years] been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense related to controlled substances or chemicals listed in subsection 2 of section 195.400.

3. The department of health shall register an applicant to manufacture, distribute, sell, transfer, or otherwise furnish listed chemicals unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of controlled substances or chemicals listed in subsection 2 of section 195.400 into other than legitimate medical, scientific,

or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of an applicant under any federal or state laws relating to any controlled substance or chemicals listed in subsection 2 of section 195.400;

(4) Past experience in the manufacture or distribution of controlled substances or chemicals listed in subsection 2 of section 195.400 and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material information in any application filed under section 195.405; and

(6) Any other factors that the department of health determines to be relevant to and consistent with the public health and safety.

4. Registration does not entitle a registrant to manufacture and distribute chemicals listed in subsection 2 of section 195.400 other than those specified in the registrant's registration.

5. A registration to manufacture, distribute, sell, transfer, or otherwise furnish or dispense a controlled substance or chemical listed in subsection 2 of section 195.400 may be suspended or revoked by the department of health upon a finding that the registrant has:

(1) Furnished false or fraudulent material information in

any application filed [under section] pursuant to sections 195.405 to 195.425;

(2) Been convicted of a felony under any state or federal law relating to any controlled substance or listed chemical [listed in subsection 2 of section 195.400];

(3) Had his federal authority to manufacture, distribute or dispense controlled substances or chemicals listed in [subsection 2 of section 195.400] sections 195.405 to 195.425 suspended or revoked; or

(4) Violated any federal controlled substances or chemicals statute or regulation, or any provision of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425.

6. The department of health may:

(1) Warn or censure a registrant;

(2) Limit a registration to particular listed chemicals;

(3) Limit revocation or suspension of a registration to a particular listed chemical with respect to which grounds for revocation or suspension exist;

(4) Restrict or limit a registration under such terms and conditions as the department of health considers appropriate for a period of five years;

(5) Suspend or revoke a registration for a period not to exceed five years; or

(6) Deny an application for registration.

In any order of revocation, the department of health may provide that the registrant may not apply for a new registration for one to five years following the date of such order. Any stay order shall toll this time period.

7. If the department of health suspends or revokes a registration, all listed chemicals owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal by the department and held pending final disposition of the case. No disposition may be made of chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable chemicals and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all chemicals may be forfeited to the state.

8. The department of health shall promptly notify the Drug Enforcement Administration, United States Department of Justice or their successor agencies, of all orders suspending or revoking registration and all forfeitures of controlled substances.

[9. A registration to manufacture or distribute listed chemicals may be suspended or revoked by the department of health upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under sections 195.005 to 195.425;

(2) Has been convicted of a felony under any state or



federal law relating to any controlled substance or listed chemical;

(3) Has had a federal registration to manufacture, distribute or dispense controlled substances or a federal registration to manufacture or distribute listed chemicals suspended or revoked; or

(4) Has violated any federal controlled substances or listed chemical statute or regulation, or any provision of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425.

10. The department of health may:

(1) Warn or censure a registrant;

(2) Limit a registration to particular listed chemicals;

(3) Limit revocation or suspension of a registration to a particular listed chemical with respect to which grounds for revocation or suspension exist;

(4) Restrict or limit a registration under such terms and conditions as the department of health considers appropriate for a period of five years;

(5) Suspend or revoke a registration for a period not to exceed five years; or

(6) Deny an application for registration.

In any order of revocation, the department of health may provide that the registrant may not apply for a new registration for one

to five years following the date of such order. Any stay order shall toll this time period.

11. If the department of health suspends or revokes a registration, all listed chemicals owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal by such agency and held pending final disposition of the case. No disposition may be made of chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable chemicals and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all chemicals may be forfeited to the state.

12.] The department of health may suspend without an order to show cause, any registration simultaneously with the institution of proceedings under subsection 5 of this section if the department of health finds that there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including review of such proceedings unless sooner withdrawn by the department of health, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

195.420. 1. It is unlawful for any person to possess chemicals listed in subsection 2 of section 195.400, or any other

chemicals proven to be precursor ingredients of methamphetamine, as established by expert testimony pursuant to subsection 3 of this section, with the intent to manufacture, compound, convert, produce, process, prepare, test, or otherwise alter that chemical to create a controlled substance or a controlled substance analogue in violation of sections 195.005 to 195.425.

2. A person who violates this section is guilty of a class [D] felony.

3. The state may present expert testimony to provide a prima facie case that any chemical, whether or not listed in subsection 2 of section 195.400, is an immediate precursor ingredient for producing methamphetamine.

195.507. 1. A county bordering another state and any political subdivision within such county may enter into agreement with the political subdivisions in such other state's contiguous county pursuant to section 70.220, RSMo, to form a multijurisdictional enforcement group for the enforcement of drug and controlled substance laws and work in cooperation pursuant to sections 195.501 to 195.511.

2. Such other state's law enforcement officers may be deputized as officers of the political subdivisions of this state participating in an agreement pursuant to subsection 1 of this section, and shall be deemed to have met all requirements of peace officer training and certification pursuant to chapter 590, RSMo, for the purposes of conducting investigations and making

arrests in this state pursuant to the provisions of section 195.505, provided such officers have satisfied the applicable peace officer training and certification standards in force in such other state.

3. Such other state's law enforcement officers shall have the same powers and immunities when working under an agreement pursuant to subsection 1 of this section as if working under an agreement with another political subdivision in Missouri pursuant to section 70.815, RSMo.

4. A multijurisdictional enforcement group formed pursuant to this section is eligible to receive state grants to help defray the costs of its operation pursuant to the terms of section 195.509.

5. The provisions of subsections 2, 3, and 4 of this section shall not be in force unless such other state has provided or shall provide legal authority for its political subdivisions to enter into such agreements and to extend reciprocal powers and privileges to the law enforcement officers of this state working pursuant to such agreements.

195.509. 1. A multijurisdictional enforcement group which meets the minimum criteria established in this section is eligible to receive state grants to help defray the costs of operation.

2. To be eligible for state grants, a MEG shall:

(1) Be established and operating pursuant to

intergovernmental contracts written and executed in conformity by law, and involve two or more [units of local government] counties of the second, third or fourth classification or municipalities within such counties;

(2) Establish a MEG policy board composed of an elected official, or his designee, and the chief law enforcement officer from each participating [unit of local government] municipality or county to oversee the operations of the MEG and make such reports to the department of public safety as the department may require;

(3) Designate a single appropriate official of a participating [unit of local government] municipality or county to act as the financial officer of the MEG for all participating [units of the local government] municipalities or counties and to receive funds for the operation of the MEG;

(4) Limit its target operation to enforcement of drug laws;

(5) Cooperate with the department of public safety in order to assure compliance with sections 195.501 to 195.511 and to enable the department to fulfill its duties under sections 195.501 to 195.511 and supply the department with all information the department deems necessary therefor.

3. The department of public safety shall monitor the operations of all MEG units which receive state grants. From the moneys appropriated annually, if funds are made available by the general assembly for this purpose, the director shall determine

and certify to the auditor the amount of the grant to be made to each designated MEG financial officer. No provision of this section shall prohibit funding of multijurisdictional enforcement groups by sources other than those provided by the general assembly, if such funding is in accordance with and in such a manner as provided by law.

217.362. 1. The department of corrections shall design and implement an intensive long-term program for the treatment of chronic nonviolent offenders with [cocaine] serious substance abuse addictions who have not pleaded guilty to or been convicted of a dangerous felony as defined in section 556.061, RSMo.

2. Prior to sentencing, any judge considering an offender for this program shall notify the department. The potential candidate for the program shall be screened by the department to determine eligibility. The department shall, by regulation, establish eligibility criteria and inform the court of such criteria. The department shall notify the court as to the offender's eligibility and the availability of space in the program. Notwithstanding any other provision of law to the contrary, except as provided for in section 558.019, RSMo, if an offender is eligible and there is adequate space, the court may sentence a person to the program which shall consist of institutional drug treatment for a period of twenty-four months, as well as a term of incarceration. Execution of the offender's term of incarceration shall be suspended pending completion of

said program. Allocation of space in the program may be distributed by the department in proportion to drug arrest patterns in the state. If the court is advised that an offender is not eligible or that there is no space available, the court shall consider other authorized dispositions.

3. Notwithstanding any other provision of the law to the contrary, upon successful completion of the program, the board of probation and parole may advise the sentencing court of the eligibility of the individual for probation. The original sentencing court shall hold a hearing to make a determination as to the fitness of the offender to be placed on probation. The court shall follow the recommendation of the board unless the court makes a determination that such a placement would be an abuse of discretion. If an offender successfully completes the program before the end of the twenty-four-month period, the department may petition the court and request that probation be granted immediately.

4. If it is determined by the department that the offender has not successfully completed the program, or that the offender is not cooperatively participating in the program, the offender shall be removed from the program and the court shall be advised. Failure of an offender to complete the program shall cause the offender to serve the sentence prescribed by the court and void the right to be considered for probation on this sentence.

311.720. Conviction in any court of any violation of this

chapter, or any felony violation of chapter 195, RSMo, in the course of business, shall have the effect of automatically revoking the license of the person convicted, and such revocation shall continue operative until said case is finally disposed of, and if the defendant is finally acquitted, he may apply for and receive a license hereunder, upon paying the regular license charge therefor, in the same manner as though he had never had a license hereunder; provided, however, that the provisions of this section shall not apply to violations of section 311.070, and violations of said section shall be punished only as therein provided.

542.276. 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

(1) Be in writing, except as provided in this section;

(2) State the time and date of the making of the application;

(3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what [he] the



officer is to search;

(5) State facts sufficient to show probable cause for the issuance of a search warrant;

(6) Be verified by the oath or affirmation of the applicant;

(7) Be filed in the proper court;

(8) Be signed or verbally authorized pursuant to this section for telephonic search warrants by the prosecuting attorney of the county where the search is to take place, or [his] the prosecuting attorney's designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation.

4. In lieu of, or in addition to, a written application, affidavit, or affidavits, as provided in this section, the prosecuting attorney may give voice authorization to the applicant to affix the prosecutor's signature at the conclusion of an oral application recorded and preserved pursuant to the procedures of this section. After the prosecutor's signature has been affixed, the applicant shall contact the judge who may take an oral statement under oath which shall be recorded on tape, wire or other comparable method by the peace officer or transmitted by a facsimile. Such statement may be given in person to the judge or by telephone, radio or other means of electronic communication including a facsimile transmission. Such statement shall be deemed to be an application and an

affidavit for the purposes of issuance of a search warrant. In such cases if a recording of the sworn statement has been made, the judge shall direct that the statement be transcribed, and certified by the peace officer, and filed with the court. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. [Oral testimony shall not be considered.] To ensure uniformity in making applications for search warrant by wire or other comparable method or by transmission by facsimile, the forms for the application and affidavit for a telephonic search warrant and the duplicate original search warrant shall be substantially as follows:

APPLICATION FOR TELEPHONE SEARCH WARRANT

Prosecuting Attorney: Hello.

Officer: Prosecutor ....., this is officer ....., of the .....

Will you swear me in, please?

Prosecutor: (The prosecutor swears the officer in.)

Officer: This is .....

of the ..... I am calling you on

..... (date) with officer.....

.. standing by as a witness. The time now is.....

I am calling with an application for a telephonic search warrant

and have just, probable and reasonable cause to believe that

there is now in the possession of .....

Unofficial

On the premises located at .....

Which consists of .....

In the vehicle described as .....

Bill

The following property, to wit:.....

.....

Together with other fruits, instrumentalities and evidence of the

crime(s) of .....

Copy

As set forth in this affidavit. That I, .....

..... your affiant, am a peace officer in the State

of Missouri, employed by .....

I have been a police officer for ..... years, and have the

following special training and experience:.....

.....

I am investigating the crime(s) of .....

which I believe to have been committed on the . . . day of . . .

. . . , 19. . . , in ....., based upon the

following reasons:

.....

.....

I believe that the property I described earlier in this affidavit

is evidence of .....

.....

For the following reasons:

.....

.....

I believe the property I previously described in this application

is presently:

G On the premises located at .....

G Which consists of .....

G On the person of .....

G In the vehicle described as .....

My belief that the property is presently at these locations is based upon the following reasons:

.....  
.....

I believe it is necessary to search for this evidence after 10:00 p.m. and before 6:30 a.m., for the reason that it is now  
..... and,  
therefore, I cannot serve it before 10:00 p.m. tonight, and

.....

That based on the preceding facts, I, . . . . .  
request that a telephonic search warrant be issued. I, also,  
request that you consider this application and incorporate it  
into the warrant itself. This concludes my application.

Mr./Madame Prosecutor, do I have permission to sign your name?

Prosecutor: (Await Prosecutor's reply)

Officer: I am signing my name, . . . . ., Date .  
. . . . ., Time . . . . ., beneath yours, and I will  
also have officer . . . . .  
sign as a witness.

Judge: Hello.

Officer: Judge . . . . .  
. . . . ., this is officer . . . . ., of  
the . . . . . Will you  
swear me in, please?

Unofficial

Judge: (The judge swears the officer in.)

Officer: This is . . . . . of the . . . . .  
. . . . . I am calling you on . . . . .  
. . . . . (date) with officer . . . . .  
standing by as a witness. The time now is . . . . .

At . . . . . hours, Prosecutor. . . . . authorized  
me to affix the prosecutor's signature to an application for  
search warrant in . . . . .  
County. I have recorded that call and am including it in as a  
reference. I am calling for a telephonic search warrant and have  
just, probable and reasonable cause to believe that there is now  
in the possession of . . . . .

On the premises located at . . . . .  
. . . . .

Bill  
Copy

Which consists of .....  
.....

In the vehicle described as .....

The following property, to wit: .....  
.....

Unofficial

Together with other fruits, instrumentalities and evidence of the  
crime(s) of .....

As set forth in this affidavit. That I, .....

....., your affiant, am a peace officer  
in the State of Missouri, employed by .....

Bill

I have been a police officer for . . . . years, and have the  
following special training and experience: .....

.....

Copy

I am investigating the crime(s) of .....  
.....

which I believe to have been committed on the . . . . . day  
of . . . . ., 19. ., in , based upon the

following reasons: .....  
.....

I believe that the property I described earlier in this affidavit  
is evidence of .....

.....

For the following reasons:

.....

.....

Unofficial

I believe the property I previously described in this affidavit  
is presently:

G On the premises located at .....

.....

G Which consists of .....

.....

G On the person of .....

G In the vehicle described as .....

My belief that the property is presently at these locations is  
based upon the following reasons:

.....

.....

I believe it is necessary to search for this evidence after 10:00  
p.m. and before 6:30 a.m., for the reason that it is now

.....

Bill

Copy



and, therefore, I cannot serve it before 10:00 p.m. tonight, and

.....  
.....

That based on the preceding facts, I, .....

request that a telephonic search warrant be issued. I, also,  
request that you consider this affidavit and incorporate it into  
the warrant itself. This concludes my affidavit, your honor.

Unofficial

Judge: (Await Judge's reply)

Officer: I will now read verbatim to you the standard Missouri  
duplicate original search warrant, State of Missouri, indicating  
which spaces I have completed and which ones I have left blank.

Bill

STANDARD MISSOURI DUPLICATE ORIGINAL SEARCH WARRANT

STATE OF MISSOURI

No. ....

Copy

COUNTY OF ....., STATE OF MISSOURI

To any peace officer in the State of Missouri:

Proof by affidavit having been made this day before me by

.....,

I am satisfied that there is probable cause to believe that:

G On the person(s) of .....

.....

G On the premises known as .....

.....

G In the vehicle(s) described as .....

.....

in the City of .....

County of ....., State of Missouri,

there is now being possessed or concealed certain property or things described as:

.....

.....

which property or things:

G Were stolen or embezzled

G Were used as a means for committing a public offense

G Is being possessed with the intent to use it as a means of committing a public offense

G Are in the possession of .....

..... to whom it was delivered for the purpose of concealing it or preventing it from being discovered.

G Consists of any item or constitutes any evidence which tends to show that a public offense has been committed, such being more fully described in the affidavit, to wit:

.....

which offense occurred on or about the ..... day of  
....., 19. ., in .....

YOU ARE THEREFORE COMMANDED:

G In the daytime (excluding the time period between 10:00  
p.m. and 6:30 a.m.)

G Or nighttime (good cause therefore having been shown) to  
make a search of the above-named or described person(s), premises  
and vehicles for the hereinabove described property or things,  
and if you find the same or any part thereof, to retain such in  
your custody or in the custody of the agency you represent, as  
provided in chapter 542, RSMo.

Return this warrant to me within ten (10) days of the date  
thereof, as directed by section 542.276, RSMo.

Given under my hand and dated this .....  
day of ....., 19. . .

.....

Judge

of ..... Court Officer: That concludes the  
reading of the standard Missouri duplicate search warrant. May I  
sign my name attesting that you have given your permission to  
issue this warrant?

Judge: (Reply)

Officer: I am signing my name, . . . . .  
. . . , Date . . . . . , Time . . . . . , and I will also have  
officer . . . . . sign as  
a witness.

[4.] 5. The judge shall [hold a nonadversary hearing to] determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. In the case of a telephonic search warrant, the judge shall give voice authorization to the applicant at the conclusion of an oral affidavit presented according to the provisions of this section. The warrant shall be issued in the form of an original and two copies. The warrant may be transmitted by a facsimile machine.

[5.] 6. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

[6.] 7. The search warrant shall:

- (1) Be in writing and in the name of the state of Missouri;
- (2) Be directed to any peace officer in the state;
- (3) State the time and date the warrant is issued;
- (4) Identify the property, article, material, substance or

person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what [he] the officer is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized or photographed or copied and be returned, or the photograph or copy be brought, within ten days after filing of the application, to the judge who issued the warrant, to be dealt with according to law;

(7) Be signed by the judge, with [his] the judge's title of office indicated. The judge may orally issue a search warrant if the peace officer applying for the warrant is not in the actual physical presence of the judge or the judge may transmit the judge's signature by a facsimile machine. Such warrant shall be called a duplicate original search warrant and shall be deemed a search warrant for the purposes of sections 542.261 to 542.296. In such cases, the judge shall cause to be issued an original search warrant docket number and shall enter the exact time of issuance of the duplicate original warrant in the court record. The officer shall present a verbatim transcription of the

recorded application, affidavit and duplicate original search warrant to the issuing judge within forty-eight hours along with the original recording. The judge may retain the recording in the care and custody of the court or may direct the peace officer to preserve the recording as evidence in the custody of the law enforcement agency. Upon the return of the duplicate original warrant, the judge shall cause it to be filed under the issued docket number as a duplicate original search warrant.

[7.] 8. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded.

[8.] 9. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application.

[9.] 10. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when [he] the possessor is not the same person as the owner, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant

for the warrant.

[10.] 11. A search warrant shall be deemed invalid:

(1) If it was not issued by a judge; or

(2) Except as provided in this section, if it was issued without a written application having been filed and verified; or

(3) If it was issued without probable cause; or

(4) If it was not issued in the proper county; or

(5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or

(6) Except as provided in subsection 7 of this section, if it is not signed by the judge who issued it; or

(7) If it was not executed within the time prescribed by subsection 8 of this section.

544.376. At any preliminary hearing conducted in the courts of this state, a report from any crime laboratory in the state, or from any federal crime laboratory, relating to the testing, analysis, identification, or comparison of evidence and certified under the seal of that laboratory shall be received into evidence on the issue of the results of scientific tests. The accused or his attorney of record shall be provided with a copy of such report at least ten days prior to the preliminary hearing and shall have the opportunity before the hearing upon notice to the state of the time and place to conduct the interview, which may be recorded, of any person who conducted the testing, analysis,

identification, or comparison of evidence which is the subject matter of the report. Nothing in this section shall affect the right of the accused to subpoena such person.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) [He] The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) [He] The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom [he] the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo:

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age, unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes



amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class D felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class C felony.

[569.085. 1. A person commits the crime of unlawful endangerment of property if, while engaged in or as a part of the enterprise for the production of a controlled substance, he protects or attempts to protect the production of the controlled substance by creating, setting up, building, erecting or using any device or weapon which causes or is intended to cause damage to the property of another person.

2. Unlawful endangerment of property is a class C felony.]

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is [one] seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo[; otherwise, stealing is a class A misdemeanor].

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia is a class D felony.

[4.] 5. The theft of any item of property or services under subsection 3 of this section which exceeds [one] seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

[5.] 6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

Section 1. 1. No person shall provide any precursor materials used in the production of a controlled substance as

defined in section 195.010, RSMo, to any other person knowing that the person to whom such materials are provided intends to use such materials for the illegal production of a controlled substance.

2. Any person who violates the provisions of subsection 1 of this section is guilty of a class D felony.

Section 2. As used in sections 2 to 4 of this act, the following words and phrases mean:

(1) "Required educational assessment and community treatment program", a program certified by the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of a drug offense;

(2) "Substance abuse specialist", a person who is qualified under the regulations of the department of mental health as a qualified instructor or professional to provide services in an alcohol and drug offender education program.

Section 3. 1. Upon a plea of guilty or a finding of guilty for a commission of a felony offense pursuant to chapter 195, RSMo, except for those offenses in which there exists a statutory prohibition against either probation or parole, when placing the person on probation, the court shall order the person to begin a required educational assessment and community treatment program within the first sixty days of probation as a condition of

probation. Persons who are placed on probation after a period of incarceration pursuant to section 559.115, RSMo, may, in the court's discretion, be required to participate in a required educational assessment and community treatment program unless the person successfully completes a program pursuant to section 217.362, RSMo.

2. The fees for the required educational assessment and community treatment program, or a portion of such fees, to be determined by the department of corrections, shall be paid by the person receiving the assessment. Any person who is assessed shall pay, in addition to any fee charged for the assessment, a supplemental fee of sixty dollars. The administrator of the program shall remit to the department of corrections the supplemental fees for all persons assessed, less two percent for administrative costs. The supplemental fees received by the department of corrections pursuant to this section shall be deposited in the correctional substance abuse earnings fund created pursuant to section 4 of this act.

Section 4. 1. There is hereby created in the state treasury a fund to be known as the "Correctional Substance Abuse Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, RSMo, money in the correctional substance abuse earnings fund shall not be transferred and placed to the credit of general revenue at the

end of the biennium.

2. Fees received pursuant to the required educational assessment and community treatment program shall be deposited in the correctional substance abuse earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 and 4 of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services.

3. The correctional substance abuse earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of corrections or the department of mental health. Subject to the appropriations process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The correctional substance abuse earnings fund may, if approved through the appropriations process, be used for the deposit of revenue received pursuant to an agreement entered into by either the department of corrections or the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of

counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

5. The department of corrections and the department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Section 5. 1. Drug courts may be established by any circuit court pursuant to this section to provide an alternative for the judicial system to dispose of cases which stem from drug use. A drug court shall combine judicial supervision, drug testing and treatment of drug court participants. Except for good cause found by the court, a drug court making a referral for substance abuse treatment, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the drug court. Upon successful completion of the treatment program, the charges, petition or penalty against a drug court participant may be dismissed, reduced or modified.

2. In any judicial circuit of this state, a majority of the judges of the circuit court may designate a judge to hear cases arising in the circuit subject to the provisions of this section.

In lieu thereof and subject to appropriations or other funds available for such purpose, a majority of the judges of the circuit court may appoint a person or persons to act as drug court commissioners. Each commissioner shall be appointed for a term of four years, but may be removed at any time by a majority of the judges of the circuit court. The qualifications and compensation of the commissioner shall be the same as that of an associate circuit judge. If the compensation of a commissioner appointed pursuant to this subsection is provided from other than state funds, the source of such fund shall pay to and reimburse the state for the actual costs of the salary and benefits of the commissioner. The commissioner shall have all the powers and duties of a circuit judge, except that any order, judgment or decree of the commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of record entered within the time the judge could set aside such order, judgment or decree had the same been made by the judge. If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation.

3. Each circuit court shall establish conditions for referral of proceedings to the drug court. The defendant in any criminal proceeding accepted by a drug court for disposition shall be a nonviolent person, as determined by the prosecuting attorney. Any proceeding accepted by the drug court program for disposition shall be upon agreement of the parties.



4. Any statement made by a participant as part of participation in the drug court program, or any report made by the staff of the program, shall not be admissible as evidence against the participant in any criminal, juvenile or civil proceeding. Notwithstanding the foregoing, termination from the drug court program and the reasons for termination may be considered in sentencing or disposition.

5. Notwithstanding any other provision of law to the contrary, drug court staff shall be provided with access to all records of any state or local government agency relevant to the treatment of any program participant. Upon general request, employees of all such agencies shall fully inform a drug court staff of all matters relevant to the treatment of the participant. All such records and reports and the contents thereof shall be treated as closed records and shall not be disclosed to any person outside of the drug court, and shall be maintained by the court in a confidential file not available to the public.

6. Any provision or provisions of this section may be applied by local circuit court rule to proceedings in the sixteenth judicial circuit subject to section 478.466, RSMo.