SECOND REGULAR SESSION

SENATE BILL NO. 853

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOWARD.

Read 1st time February 2, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2882.02I

AN ACT

To repeal section 195.420, RSMo 1994, and sections 195.010, 195.017, 195.040, 195.060, 195.100, 195.400 and 195.410, RSMo Supp. 1997, relating to the regulation of controlled substances, and to enact in lieu thereof eight new sections relating to the same subject, with penalty provisions.

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

Section A. Section 195.420, RSMo 1994, and sections 195.010, 195.017, 195.040, 195.060, 195.100, 195.400 and 195.410, RSMo Supp. 1997, are repealed and eight new sections enacted in lieu thereof, to be known as sections 195.010, 195.017, 195.040, 195.060, 195.100, 195.400, 195.410 and 195.420, to read as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;

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

(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. Bongs;

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 **as a result of a prescription or order by a practitioner as authorized by statute** 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.

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

(1) Has high potential for abuse; and

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

2. Schedule I:

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

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

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha-methylfentanyl;

(h) Alpha-methylthiofentanyl;

(i) Benzethidine;

(j) Betacetylmethadol;

(k) Beta-hydroxyfentanyl;

(l) Beta-hydroxy-3-methylfentanyl;

(m) Betameprodine;

(n) Betamethadol;

(o) Betaprodine;

(p) Clonitazene;

(q) Dextromoramide;

(r) Diampromide;

(s) Diethylthiambutene;

(t) Difenoxin;

(u) Dimenoxadol;

(v) Dimepheptanol;

(w) Dimethylthiambutene;

(x) Dioxaphetyl butyrate;

(y) Dipipanone;

(z) Ethylmethylthiambutene;

(aa) Etonitazene;

(bb) Etoxeridine;

(cc) Furethidine;

(dd) Hydroxypethidine;

(ee) Ketobemidone;

(ff) Levomoramide;

(gg) Levophenacylmorphan;

(hh) 3-Methylfentanyl;

(ii) 3-Methylthiofentanyl;

(jj) Morpheridine;

(kk) MPPP;

(ll) Noracymethadol;

(mm) Norlevorphanol;

(nn) Normethadone;

(oo) Norpipanone;

(pp) Para-fluorofentanyl;

(qq) PEPAP;

(rr) Phenadoxone;

(ss) Phenampromide;

(tt) Phenomorphan;

(uu) Phenoperidine;

(vv) Piritramide;

(ww) Proheptazine;

(xx) Properidine;

(yy) Propiram;

(zz) Racemoramide;

(aaa) Thiofentanyl;

(bbb) Tilidine;

(ccc) Trimeperidine;

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

(a) Acetorphine;

(b) Acetyldihydrocodeine;

(c) Benzylmorphine;

(d) Codeine methylbromide;

(e) Codeine-N-Oxide;

(f) Cyprenorphine;

(g) Desomorphine;

(h) Dihydromorphine;

(i) Drotebanol;

(j) Etorphine; (except Hydrochloride Salt);

(k) Heroin;

(l) Hydromorphinol;

(m) Methyldesorphine;

(n) Methyldihydromorphine;

(o) Morphine methylbromide;

(p) Morphine methylsulfonate;

(q) Morphine-N-Oxide;

(r) Myrophine;

(s) Nicocodeine;

(t) Nicomorphine;

(u) Normorphine;

(v) Pholcodine;

(w) Thebacon;

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

(a) 4-bromo-2,5-dimethoxyamphetamine;

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

(c) 2,5-dimethoxyamphetamine;

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

(e) 4-methoxyamphetamine;

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

(g) 4-methyl-2,5-dimethoxy amphetamine;

(h) 3,4-methylenedioxyamphetamine;

(i) 3,4-methylenedioxymethamphetamine;

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

(k) N-nydroxy-3, 4-methylenedioxyamphetamine;

(l) 3,4,5-trimethoxyamphetamine;

(m) Alpha-ethyltryptamine;

(n) Bufotenine;

(o) Diethyltryptamine;

(p) Dimethyltryptamine;

(q) Ibogaine;

(r) Lysergic acid diethylamide;

(s) Marijuana; (Marihuana);

(t) Mescaline;

(u) Parahexyl;

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

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

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

(y) Psilocybin;

(z) Psilocyn;

(aa) Tetrahydrocannabinols;

(bb) Ethylamine analog of phencyclidine;

(cc) Pyrrolidine analog of phencyclidine;

(dd) Thiophene analog of phencyclidine;

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

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

(a) Mecloqualone;

(b) Methaqualone;

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

(a) Aminorex;

(b) Cathinone;

(c) Fenethylline;

(d) Methcathinone;

(e) (+)cis-4-methylaminore x ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazola- mine);

(f) N-ethylamphetamine;

(g) N,N-dimethylamphetamine;

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

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

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

3. The department of health shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

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

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

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

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

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

a. Raw opium;

b. Opium extracts;

c. Opium fluid;

d. Powdered opium;

e. Granulated opium;

f. Tincture of opium;

g. Codeine;

h. Ethylmorphine;

i. Etorphine hydrochloride;

j. Hydrocodone;

k. Hydromorphone;

l. Metopon;

m. Morphine;

n. Oxycodone;

o. Oxymorphone;

p. Thebaine;

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

(c) Opium poppy and poppy straw;

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

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

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

(a) Alfentanil;

(b) Alphaprodine;

(c) Anileridine;

(d) Bezitramide;

(e) Bulk Dextropropoxyphene;

(f) Carfentanil;

(g) Butyl nitrite;

(h) Dihydrocodeine;

(i) Diphenoxylate;

(j) Fentanyl;

(k) Isomethadone;

(l) Levo-alphacetylmethadol;

(m) Levomethorphan;

(n) Levorphanol;

(o) Metazocine;

(p) Methadone;

(q) Meperidine;

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

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

(t) Pethidine;

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

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

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

(x) Phenazocine;

(y) Piminodine;

(z) Racemethorphan;

(aa) Racemorphan;

(bb) Sulfentanil;

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

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

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

(c) Phenmetrazine and its salts;

(d) Methylphenidate;

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

(a) Amobarbital;

(b) Glutethimide;

(c) Pentobarbital;

(d) Phencyclidine;

(e) Secobarbital;

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

(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(b) Nabilone;

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

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

(b) Immediate precursors to phencyclidine (PCP):

a. 1-phenylcyclohexylamine;

b. 1-piperidinocyclohexanecarbonitrile (PCC).

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

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

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

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

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

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

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Phendimetrazine;

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

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

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

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

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

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

(d) Chlorhexadol;

(e) Lysergic acid;

(f) Lysergic acid amide;

(g) Methyprylon;

(h) Sulfondiethylmethane;

(i) Sulfonethylmethane;

(j) Sulfonmethane;

(k) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

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

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

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

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

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

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

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

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

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

(5) Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(a) Boldenone;

(b) Chlorotestosterone (4-Chlortestosterone);

(c) Clostebol;

(d) Dehydrochlormethyltestosterone;

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

(f) Drostanolone;

(g) Ethylestrenol;

(h) Fluoxymesterone;

(i) Formebulone (Formebolone);

(j) Mesterolone;

(k) Methandienone;

(l) Methandranone;

(m) Methandriol;

(n) Methandrostenolone;

(o) Methenolone;

(p) Methyltestosterone;

(q) Mibolerone;

(r) Nandrolone;

(s) Norethandrolone;

(t) Oxandrolone;

(u) Oxymesterone;

(v) Oxymetholone;

(w) Stanolone;

(x) Stanozolol;

(y) Testolactone;

(z) Testosterone;

(aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for that administration.

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

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

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

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

(3) Abuse of the substance may lead to limited physical dependence or psychological

dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

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

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

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

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

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

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

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

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

(a) Alprazolam;

(b) Barbital;

(c) Bromazepam;

(d) Camazepam;

(e) Chloral betaine;

(f) Chloral hydrate;

(g) Chlordiazepoxide;

(h) Clobazam;

(i) Clonazepam;

(j) Clorazepate;

(k) Clotiazepam;

(l) Cloxazolam;

(m) Delorazepam;

(n) Diazepam;

(o) Estazolam;

(p) Ethchlorvynol;

(q) Ethinamate;

(r) Ethyl loflazepate;

(s) Fludiazepam;

(t) Flunitrazepam;

(u) Flurazepam;

(v) Halazepam;

(w) Haloxazolam;

(x) Ketazolam;

(y) Loprazolam;

(z) Lorazepam;

(aa) Lormetazepam;

(bb) Mebutamate;

(cc) Medazepam;

(dd) Meprobamate;

(ee) Methohexital;

(ff) Methylphenobarbital;

(gg) Midazolam;

(hh) Nimetazepam;

(ii) Nitrazepam;

(jj) Nordiazepam;

(kk) Oxazepam;

(ll) Oxazolam;

(mm) Paraldehyde;

(nn) Petrichloral;

(oo) Phenobarbital;

(pp) Pinazepam;

(qq) Prazepam;

(rr) Quazepam;

(ss) Temazepam;

(tt) Tetrazepam;

(uu) Triazolam;

(vv) Zolpidem;

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

(4) Any material, compound, mixture or preparation containing any quantity of the

following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

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

(b) Diethylpropion;

(c) Fencamfamin;

(d) Fenproporex;

(e) Mazindol;

(f) Mefenorex;

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

(h) Phentermine;

(i) Pipradrol;

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

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

(6) Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers, or salts of optical isomers **[**as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient**]**;

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

9. The department of health shall place a substance in Schedule V if it finds that:

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

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

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

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

(1) Any material, compound, mixture or preparation containing any of the following narcotic drug and its salts: buprenorphine;

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

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

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

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

(3) Any material, compound, mixture or preparation which contains any quantity of the following **[**substance**] substances** having a stimulant effect on the central nervous system including **[**its**] their** salts, isomers and salts of isomers:

(a) Pyrovalerone**;**

(b) Pseudoephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or pseudoephedrine or its salts, optical isomers, or salts of optical isomers, except as specifically exempted by the department of health by regulation.

11. The department of health shall revise and republish the schedules annually.

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 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. 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.

[10.**]** **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**]** **a [**authorized**]** 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.

195.400. 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 and its salts;

(2) Benzyl cyanide;

(3) Ergotamine and its salts;

(4) Ergonovine and its salts;

(5) N-Acetylanthranilic acid and its salts;

(6) Phenylacetic acid 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) Proprionic anhydride;

(24) Insosafrole (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**] Sulfuric acid**;

(32) Methyl Isobutyl Ketone (MIBK);

(33) **[**Hydriotic acid**] Hydrochloric acid;**

(34) Iodine;

(35) 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 195.405;

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

(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 **[**limit revocation or suspension of a registration to a particular listed chemical with respect to which grounds for revocation or suspension exist.**]:**

(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 product or substance containing such chemical** 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.