(Sections 7, 9 and section 36-2804 — failed to obtain the three-fourths vote pursuant to article IV, part 1, section 1, Constitution of Arizona.)

House Engrossed Senate Bill

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1286

AN ACT

AMENDING SECTIONS 11-811, 11-812, 13-3401, 15-712, 32-1901 AND 32-1904, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL MARIJUANA ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 11-811, Arizona Revised Statutes, is amended to read:

11-811. Zoning ordinance; zoning districts; definitions

A. Pursuant to this article, the board of supervisors may adopt a zoning ordinance in order to conserve and promote the public health, safety, convenience and general welfare. The zoning ordinance and all rezonings and zoning regulations amendments adopted under this article shall be consistent with and conform to the adopted comprehensive plan. In addition to the other matters that are required or authorized under this section and article 1 of this chapter, the zoning ordinance:

1. Shall show the zoning districts designated as appropriate for various classes of residential, business and industrial uses and shall provide for the establishment of setback lines and other plans providing for adequate light, air and parking facilities and for expediting traffic within the districts.

2. May establish the percentage of a lot or parcel that may be covered by buildings and the size of yards, courts and other open spaces.

3. Shall consider access to incident solar energy.

4. May provide for retirement community zoning districts.

5. May provide for the regulation and use of business licenses, adult oriented business manager permits and adult service provider permits in conjunction with the establishment or operation of adult oriented businesses and facilities, including adult arcades, adult bookstores or video stores, cabarets, adult live entertainment establishments, adult motion picture theaters, adult theaters, massage establishments and nude model studios. With respect to cabarets, the ordinance shall not conflict with specific statutory or valid regulatory requirements applicable to persons licensed to dispense alcoholic beverages, but the ordinance may include regulation of the age and conduct of erotic entertainers in a manner at least as restrictive as rules adopted under title 4. Notwithstanding section 11-812, a county in regulating or licensing businesses and facilities pursuant to this paragraph may impose reasonable operating requirements that affect the existing uses of businesses and facilities.

6. Shall designate and zone appropriate areas of reasonable size in which there may be established with reasonable permanency canneries, fertilizer plants, refineries, commercial feedlots, meat packing plants, tallow works and other like businesses. A dairy operation, including areas designated for the raising of replacement heifers or bulls owned by the same dairy operation, is not subject to this paragraph, and is a general agricultural purpose under subsection D, paragraph 2 of this section and section 11-812, subsection A, paragraph 2. A replacement heifer or bull raising operation of a dairy that is not on contiguous

property of the dairy is subject to this paragraph unless the operation begins within one-quarter mile of the dairy.

B. To carry out the purposes of this article, the board may adopt overlay zoning districts and regulations applicable to particular buildings, structures and land within individual zones. For the purposes of this subsection, "overlay zoning district" means a special zoning district that includes regulations that modify regulations in another zoning district with which the overlay zoning district is combined. Overlay zoning districts and regulations shall be adopted pursuant to section 11-813. The provisions of overlay zoning shall apply retroactively to authorize overlay zoning districts and regulations adopted before April 20, 1993.

C. In accordance with article II, sections 1 and 2, Constitution of Arizona, the board shall consider the individual property rights and personal liberties of the residents of the county before adopting any zoning ordinance.

D. This section does not authorize:

1. The imposition of dedications, exactions, fees or other requirements that are not otherwise authorized by law.

2. The regulation or restriction of the use or occupation of land or improvements for railroad, mining, metallurgical, grazing or general agricultural purposes, if the tract concerned is five or more contiguous commercial acres. For the purposes of this paragraph, general agricultural purposes do not include the cultivation of cannabis ~~as defined in section 13-3401~~ or marijuana as defined in section 13-3401 or 36-2801.

E. For the purposes of this section:

1. "Adult arcade" means any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.

2. "Adult bookstore or video store" means a commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

(a) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides or other visual representations that depict or describe specific sexual activities or specific anatomical areas.

(b) Instruments, devices or paraphernalia that are designed for use in connection with specific sexual activities.

3. "Adult live entertainment establishment" means an establishment that features either:

(a) Persons who appear in a state of nudity.

(b) Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

4. "Adult motion picture theater" means a commercial establishment in which for any form of consideration films, motion pictures, videocassettes, slides or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

5. "Adult oriented business" means adult arcades, adult bookstores or video stores, cabarets, adult live entertainment establishments, adult motion picture theaters, adult theaters, massage establishments that offer adult service or nude model studios.

6. "Adult oriented business manager" means a person on the premises of an adult oriented business who is authorized to exercise overall operational control of the business.

7. "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.

8. "Adult service provider" or "erotic entertainer" means any natural person who provides an adult service.

9. "Adult theater" means a theater, concert hall, auditorium or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

10. "Cabaret" means an adult oriented business licensed to provide alcoholic beverages pursuant to title 4, chapter 2, article 1.

11. "Discernibly turgid state" means the state of being visibly swollen, bloated, inflated or distended.

12. "Massage establishment" means an establishment in which a person, firm, association or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This paragraph does not apply to:

(a) Persons who are licensed pursuant to title 32, chapter 7, 8, 13, 14 or 17.

(b) Registered nurses, licensed practical nurses or technicians who are acting under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(c) Registered nurse practitioners who are licensed pursuant to title 32, chapter 15.

(d) Persons who are employed or acting as trainers for a bona fide amateur, semiprofessional or professional athlete or athletic team.

(e) Persons who are licensed pursuant to title 32, chapter 3 or 5 if the activity is limited to the head, face or neck.

13. "Nude model studio" means a place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other consideration. Nude model studio does not include a proprietary school that is licensed by this state, a college, community college or university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college, community college or university that is supported entirely or in part by taxation or a structure to which the following apply:

(a) A sign is not visible from the exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.

(b) A student must enroll at least three days in advance of a class in order to participate.

(c) No more than one nude or seminude model is on the premises at any time.

14. "Nude", "nudity" or "state of nudity" means any of the following:

(a) The appearance of a human anus, genitals or a female breast below a point immediately above the top of the areola.

(b) A state of dress that fails to opaquely cover a human anus, genitals or a female breast below a point immediately above the top of the areola.

15. "Principal business purposes" means that a commercial establishment derives fifty percent or more of its gross income from the sale or rental of items listed in paragraph 2 of this subsection.

16. "Seminude" means a state of dress in which clothing covers no more than the genitals, pubic region and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

17. "Specific anatomical areas" means any of the following:

(a) A human anus, genitals, the pubic region or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.

(b) Male genitals in a discernibly turgid state even if completely and opaquely covered.

18. "Specific sexual activities" means any of the following:

(a) Human genitals in a state of sexual stimulation or arousal.

(b) Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation or sodomy.

(c) Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.

(d) Excretory functions as part of or in connection with any of the activities under subdivision (a), (b) or (c) of this paragraph.

Sec. 2. Section 11-812, Arizona Revised Statutes, is amended to read:

11-812. Restriction on regulation; exceptions; aggregate mining regulation; definitions

A. ~~Nothing contained in~~ Any ordinance authorized by this chapter shall NOT:

1. Affect existing uses of property or the right to its continued use or the reasonable repair or alteration of the property for the purpose for which used at the time the ordinance affecting the property takes effect.

2. Prevent, restrict or otherwise regulate the use or occupation of land or improvements for railroad, mining, metallurgical, grazing or general agricultural purposes, if the tract concerned is five or more contiguous commercial acres. For the purposes of this paragraph, general agricultural purposes do not include the cultivation of cannabis ~~as defined in section 13-3401~~ or marijuana as defined in section 13-3401 or 36-2801. For the purposes of this paragraph, "mining" has the same meaning prescribed in section 27-301.

3. Prevent, restrict or otherwise regulate the use or occupation of land or improvements for agricultural composting, if the tract is five or more contiguous commercial acres. An agricultural composting operation shall notify in writing the board of supervisors and the nearest fire department of the location of the composting operation. If the nearest fire department is located in a city, town or fire district where the agricultural composting is not located, the agricultural composting operation shall also notify in writing the fire district in which the operation is located. Agricultural composting is subject to sections 3-112 and 49-141. For the purposes of this paragraph, "agricultural composting" has the same meaning prescribed in section 9-462.01, subsection G.

4. Prevent, restrict or otherwise regulate the otherwise lawful discharge of a firearm or air gun or use of archery equipment on a private lot or parcel of land that is not open to the public on a commercial or membership basis.

B. A nonconforming business use within a district may expand if the expansion does not exceed one hundred ~~per cent~~ PERCENT of the area of the original business.

C. For the purposes of subsection A, paragraph 2 of this section, mining does not include aggregate mining operations in an aggregate mining

operations zoning district established pursuant to this section. The board of supervisors of any county with a population of more than two million persons shall designate and establish the boundaries of an aggregate mining operations zoning district on the petition of at least one hundred persons who reside within one-half mile of an existing aggregate mining operation. In addition, the board of supervisors of any county may establish, in its discretion and on the board's initiative, one or more aggregate mining operations zoning districts. Aggregate mining operations zoning districts may only be located in areas that are inventoried and mapped as areas of known reserves or in areas with existing aggregate mining operations. Subject to subsections E and F of this section, a county and the state mine inspector may jointly adopt, as internal administrative regulations, reasonable aggregate mining operations zoning district standards limited to permitted uses, procedures for approval of property development plans and site development standards for dust control, height regulations, setbacks, days and hours of operation, off-street parking, screening, noise, vibration and air pollution control, signs, roadway access lanes, arterial highway protection and property reclamation for which aggregate mining operations are not otherwise subject to federal, state or local regulation or a governmental contractual obligation. Regulations jointly adopted pursuant to this subsection by the county and the state mine inspector shall not prohibit the activities included in the definition of mine pursuant to section 27-301, paragraph 8 or duplicate, conflict with or be more stringent than applicable federal, state or local laws.

D. The board of supervisors of any county that establishes an aggregate mining operations zoning district shall appoint an aggregate mining operations recommendation committee for the district. The committee consists of not more than seven operators, or representatives of operators, of active aggregate mining operations in any district within the county and an equal number of private citizens, who are not operators, who are not employed by operators and who do not represent operators, residing within three miles of the boundaries of aggregate mining operations or a proposed aggregate mining operation in the district for which the committee is established. The initial members appointed to the committee shall be deemed the primary members, and the board of supervisors shall appoint no more than five alternate members who represent operators and shall appoint no more than five alternate members who are private citizens. Alternate members may serve at meetings of the committee when a primary member is unable to attend. An aggregate mining operator may serve on more than one committee in the same county. The board of supervisors shall determine the length of terms of members of the committee and shall stagger the initial appointments so that not all members' terms expire at the same time. Members of the committee who no longer qualify for membership as provided by this subsection are subject

to removal and replacement by the board of supervisors. The committee shall elect a member who is an aggregate mining operator to serve as chairperson for the first year in which the committee is created. For each year thereafter, the chairperson shall be elected by the members of the committee with a member who is a private citizen and a member who is an aggregate mining operator serving as chairperson in alternate years. The committee is subject to the open meeting requirements of title 38, chapter 3, article 3.1.

E. Within ninety days after an aggregate mining operations recommendation committee is established, the committee shall notify all existing aggregate mining operators in the district of the application of this section and title 27, chapter 3, article 6 to the aggregate mining operation. In addition, the committee shall:

1. By a majority vote of all members make recommendations to the board of supervisors for aggregate mining zoning districts and administrative regulations as provided in this section. The board of supervisors may adopt or reject the recommendations but may not make any modifications to the recommendations unless the modification is approved by a majority of the members of the recommendation committee.

2. Serve as a forum for mediation of disputes between members of the public and aggregate mining owners or operators. If the committee is unable to resolve a dispute, the committee shall transmit the matter to the state mine inspector, with written findings and recommendations, for further action.

3. Hear written complaints filed with the state mine inspector regarding alleged material deviations from approved community notices for aggregate mining operations and make written recommendations to the state mine inspector pursuant to section 27-446.

F. Any administrative regulations adopted by a board of supervisors pursuant to this section are not effective until the regulations are approved by the state mine inspector. The inspector may disapprove the administrative regulations adopted by the board of supervisors only if they duplicate, conflict with or are more stringent than applicable federal, state or local laws, rules or regulations. If the inspector disapproves the administrative regulations, the inspector must provide written reasons for the disapproval. The inspector shall not make any modification to the administrative regulations as adopted by the board of supervisors unless the modification is approved by a majority of the members of the board of supervisors.

G. A person or entity is subject to this chapter if the use or occupation of land or improvements by the person or entity consists of or includes changing, remanufacturing or treating human sewage or sludge for distribution or resale. These activities are not exempt from this chapter under subsection A, paragraph 2 of this section.

H. A county shall not require as a condition for a permit or for any approval, or otherwise cause, an owner or possessor of property to waive the right to continue an existing nonconforming outdoor advertising use or structure without acquiring the use or structure by purchase or condemnation and paying just compensation unless the county, at its option, allows the use or structure to be relocated to a comparable site in the county with the same or a similar zoning classification, or to another site in the county acceptable to both the county and the owner of the use or structure, and the use or structure is relocated to the other site. The county shall pay for relocating the outdoor advertising use or structure including the cost of removing and constructing the new use or structure that is at least the same size and height. This subsection does not apply to county rezoning of property at the request of the property owner to a more intensive zoning district.

I. For the purposes of this section:

1. "Aggregate" has the same meaning prescribed in section 27-441.

2. "Aggregate mining" has the same meaning prescribed in section 27-441.

3. "Aggregate mining operation" means property that is owned, operated or managed by the same person for aggregate mining.

4. "Operators" means persons who are actively engaged in aggregate mining operations within the zoning district or proposed zoning district and who have given notice to the state mine inspector pursuant to section 27-303.

Sec. 3. Section 13-3401, Arizona Revised Statutes, is amended to read:

13-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means to apply, inject or facilitate the inhalation or ingestion of a substance to the body of a person.

2. "Amidone" means any substance identified chemically as (4-4-diphenyl-6-dimethylamine-heptanone-3), or any salt of such substance, by whatever trade name designated.

3. "Board" means the Arizona state board of pharmacy.

~~4. "Cannabis" means the following substances under whatever names they may be designated:~~

~~(a) The resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its resin. Cannabis does not include oil or cake made from the seeds of such plant, any fiber, compound, manufacture, salt, derivative, mixture or preparation of the mature stalks of such plant except the resin extracted from the stalks or any fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.~~

~~(b) Every compound, manufacture, salt, derivative, mixture or preparation of such resin or tetrahydrocannabinol.~~

~~5.~~ 4. "Coca leaves" means cocaine, its optical isomers and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves ~~which~~ THAT do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

~~6.~~ 5. "Dangerous drug" means the following by whatever official, common, usual, chemical or trade name designated:

(a) Any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances and their salts, isomers, whether optical, positional or geometric, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) Alpha-ethyltryptamine.

(ii) Alpha-methyltryptamine.

(iii) (2-aminopropyl) benzofuran (APB).

(iv) (2-aminopropyl)-2, 3-dihydrobenzofuran (APDB).

(v) Aminorex.

(vi) 4-bromo-2, 5-dimethoxyphenethylamine.

(vii) 4-bromo-2, 5-dimethoxyamphetamine.

(viii) Bufotenine.

(ix) [3-(3-carbamoylphenyl)phenyl]N-cyclohexyl carbamate (URB-597).

(x) Diethyltryptamine.

(xi) 2, 5-dimethoxyamphetamine.

(xii) Dimethyltryptamine.

(xiii) (2-ethylaminopropyl)-benzofuran (EAPB).

(xiv) 5-methoxy-alpha-methyltryptamine.

(xv) 5-methoxy-3, 4-methylenedioxyamphetamine.

(xvi) 4-methyl-2, 5-dimethoxyamphetamine.

(xvii) (2-methylaminopropyl)-benzofuran (MAPB).

(xviii) Ibogaine.

(xix) Lysergic acid amide.

(xx) Lysergic acid diethylamide.

(xxi) Mescaline.

(xxii) 4-methoxyamphetamine.

(xxiii) Methoxymethylenedioxyamphetamine (MMDA).

(xxiv) Methylenedioxyamphetamine (MDA).

(xxv) 3, 4-methylenedioxymethamphetamine.

(xxvi) 3, 4-methylenedioxy-N-ethylamphetamine.

(xxvii) N-ethyl-3-piperidyl benzilate (JB-318).

(xxviii) N-hydroxy-3, 4-methylenedioxyamphetamine.

(xxix) N-methyl-3-piperidyl benzilate (JB-336).

(xxx) N-methyltryptamine mimetic substances that are any substances derived from N-methyltryptamine by any substitution at the nitrogen, any substitution at the indole ring, any substitution at the alpha carbon, any substitution at the beta carbon or any combination of the above. N-methyltryptamine mimetic substances do not include melatonin (5-methoxy-n-acetyltryptamine). Substances in the N-methyltryptamine generic definition include AcO-DMT, Baeocystine, Bromo-DALT, DiPT, DMT, DPT, HO-DET, HO-DiPT, HO-DMT, HO-DPT, HO-MET, MeO-DALT, MeO-DET, MeO-DiPT, MeO-DMT, MeO-DPT, MeO-NMT, MET, NMT and Norbufotenin.

(xxxi) N-(1-phenylcyclohexyl) ethylamine (PCE).

(xxxii) Nabilone.

(xxxiii) 1-(1-phenylcyclohexyl) pyrrolidine (PHP).

(xxxiv) 1-(1-(2-thienyl)-cyclohexyl) piperidine (TCP).

(xxxv) 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine.

(xxxvi) Para-methoxyamphetamine (PMA).

(xxxvii) Psilacetin.

(xxxviii) Psilocybin.

(xxxix) Psilocyn.

(xl) Synhexyl.

(xli) Trifluoromethylphenylpiperazine (TFMPP).

(xlii) Trimethoxyamphetamine (TMA).

(xliii) 1-pentyl-3-(naphthoyl)indole (JWH-018 and isomers).

(xliv) 1-butyl-3-(naphthoyl)indole (JWH-073 and isomers).

(xlv) 1-hexyl-3-(naphthoyl)indole (JWH-019 and isomers).

(xlvi) 1-pentyl-3-(4-chloro naphthoyl)indole (JWH-398 and isomers).

(xlvii) 1-(2-(4-(morpholinyl)ethyl))-3-(naphthoyl)indole (JWH-200 and isomers).

(xlviii) 1-pentyl-3-(methoxyphenylacetyl)indole (JWH-250 and isomers).

(xlix) (2-methyl-1-propyl-1H-indol-3-YL)-1-naphthalenyl-methanone (JWH-015 and isomers).

(l) (6AR, 10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan2-YL)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol) (HU-210).

(li) 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (CP 47,497 and isomers).

(lii) 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol, CP-47,497 C8 homologue and isomers).

(b) Any material, compound, mixture or preparation that contains any quantity of cannabimimetic substances and their salts, isomers, whether optical, positional or geometric, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation. For the purposes of this subdivision, "cannabimimetic substances" means any substances within the following structural classes:

(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent. Substances in the 2-(3-hydroxycyclohexyl)phenol generic definition include CP-47,497, CP-47,497 C8-Homolog, CP-55,940 and CP-56,667.

(ii) 3-(naphthoyl)indole or 3-(naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent. Substances in the 3-(naphthoyl)indole generic definition include AM-678, AM-2201, JWH-004, JWH-007, JWH-009, JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070, JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080, JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116, JWH-120, JWH-122, JWH-148, JWH-149, JWH-175, JWH-180, JWH-181, JWH-182, JWH-184, JWH-185, JWH-189, JWH-192, JWH-193, JWH-194, JWH-195, JWH-196, JWH-197, JWH-199, JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234, JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242, JWH-262, JWH-386, JWH-387, JWH-394, JWH-395, JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413, JWH-414 and JWH-415.

(iii) 3-naphthoyl-indazole or 3-(naphthylmethane)-indazole by substitution at one or both of the nitrogen atoms of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the naphthoyl ring to any extent. Substances in the 3-naphthoyl-indazole or 3-(naphthylmethane)-indazole generic definition include THJ2201 and THJ-018.

(iv) 3-(naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent. Substances in the 3-(naphthoyl)pyrrole generic definition include JWH-030, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308, JWH-346, JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368, JWH-369, JWH-370, JWH-371, JWH-373 and JWH-392.

(v) 1-(naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent. Substances in the 1-(naphthylmethylene)indene generic definition include JWH-176.

(vi) 3-(phenylacetyl)indole or 3-(benzoyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent. Substances in the 3-(phenylacetyl)indole generic definition include AM-694, AM-2233, JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207, JWH-208, JWH-209, JWH--237, JWH-248, JWH-250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306,

JWH-311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-4, RCS-8, SR-18 and SR-19.

(vii) 3-(cyclopropylmethanone) indole or 3-(cyclobutylmethanone) indole or 3-(cyclopentylmethanone) indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the cyclopropyl, cyclobutyl or cyclopentyl rings to any extent. Substances in the 3-(cyclopropylmethanone) indole generic definition include UR-144, fluoro-UR-144 and XLR-11.

(viii) 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent. Substances in the 3-adamantoylindole generic definition include AB-001.

(ix) N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent. Substances in the N-(adamantyl)-indole-3-carboxamide generic definition include SDB-001.

(x) Indole-3-carboxamide or indazole-3-carboxamide with substitution at the nitrogen atom of the indole ring or by substitution at one or both of the nitrogen atoms of the indazole ring, whether or not further substituted on the indole ring or the indazole ring to any extent, whether or not substituted on the nitrogen of the carboxamide to any extent. Substances in the indole-3-carboxamide or indazole-3-carboxamide generic definition include AKB-48, fluoro-AKB-48, APINACA, AB-PINACA, AB-FUBINACA, ABICA and ADBICA.

(xi) 8-Quinolinyl-indole-3-carboxylate or 8-quinolinyl-indazole-3-carboxylate by substitution at the nitrogen atom of the indole ring or by substitution at one or both of the nitrogen atoms of the indazole ring, whether or not further substituted in the indole ring or indazole ring to any extent, whether or not substituted on the quinoline ring to any extent. Substances in the 8-quinolinyl-indole-3-carboxylate or the 8-quinolinyl-indazole-3-carboxylate generic definition include PB-22, fluoro-PB-22, NPB-22 and fluoro-NPB-22.

(xii) Naphthalenyl-indole-3-carboxylate or naphthalenyl-indazole-3-carboxylate by substitution at the nitrogen atom of the indole ring or by substitution at one or both of the nitrogen atoms of the indazole ring, whether or not further substituted in the indole or indazole ring to any extent, whether or not substituted on the naphthalenyl ring to any extent. Substances in the naphthalenyl-indole-3-carboxylate or naphthalenyl-indazole-3-carboxylate generic definition include NM2201, FDU-PB-22, SDB-005 and fluoro SDB-005.

(c) Any material, compound, mixture or preparation that contains any quantity of the following substances and their salts, isomers, whether

optical, positional or geometric, and salts of isomers having a potential for abuse associated with a stimulant effect on the central nervous system:

(i) Alpha-pyrrolidinobutiophenone (Alpha-PBP).

(ii) Alpha-pyrrolidinopropiophenone (Alpha-PPP).

(iii) Alpha-pyrrolidinovalerophenone (Alpha-PVP).

(iv) Alpha-pyrrolidinovalerothiophenone (Alpha-PVT).

(v) Aminoindane mimetic substances that are derived from aminoindane by any substitution at the indane ring, replacement of the amino group with another N group or any combination of the above. Substances in the aminoindane generic definition include MDAI, MMAI, IAI and AMMI.

(vi) Amphetamine.

(vii) Benzphetamine.

(viii) Benzylpiperazine (BZP).

(ix) Beta-keto-n-methylbenzodioxolylbutanamine (Butylone).

(x) Beta-keto-n-methylbenzodioxolylpentanamine (Pentylone).

(xi) Butorphanol.

(xii) Cathine ((+)-norpseudoephedrine).

(xiii) Cathinomimetic substances that are any substances derived from cathinone, (2-amino-1-phenyl-1-propanone) by any substitution at the phenyl ring, any substitution at the 3 position, any substitution at the nitrogen atom or any combination of the above substitutions.

(xiv) Cathinone.

(xv) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).

(xvi) Chlorphentermine.

(xvii) Clortermine.

(xviii) Diethylpropion.

(xix) Dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine) (MDAI).

(xx) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).

(xxi) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).

(xxii) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N).

(xxiii) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

(xxiv) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).

(xxv) Dimethylcathinone (Metamfepramone).

(xxvi) Ethcathinone.

(xxvii) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).

(xxviii) Fencamfamin.

(xxix) Fenethylline.

(xxx) Fenproporex.

(xxxi) Fluoroamphetamine.

(xxxii) Fluoromethamphetamine.

(xxxiii) Fluoromethcathinone.

(xxxiv) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).

(xxxv) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine(2C-T-4).

(xxxvi) Mazindol.
(xxxvii) Mefenorex.
(xxxviii) Methamphetamine.
(xxxix) Methcathinone.
(xl) Methiopropamine.
(xli) Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
(xlii) Methoxymethcathinone (methedrone).
(xliii) Methoxyphenethylamine mimetic substances that are any substances derived from 2, 5-dimethoxy-phenethylamine by any substitution at the phenyl ring, any substitution at the nitrogen atom, any substitutions at the carbon atoms of the ethylamine, or any combination of the above substitutions.
(xliv) 4-methylaminorex.
(xlv) Methyl-a-pyrrolidinobutiophenone (MPBP).
(xlvi) Methylenedioxy-alphapyrrolidinopropiophenone (MDPPP).
(xlvii) Methylenedioxyethcathinone (Ethylone).
(xlviii) Methylenedioxymethcathinone (Methylone).
(xlix) Methylenedioxypyrovalerone (MDPV).
(l) Methylmethcathinone (Mephedrone).
(li) Methylphenidate.
(lii) Modafinil.
(liii) Naphthylpyrovalerone (Naphyrone).
(liv) N-ethylamphetamine.
(lv) N, N-dimethylamphetamine.
(lvi) Pemoline.
(lvii) Phendimetrazine.
(lviii) Phenmetrazine.
(lix) Phentermine.
(lx) Pipradol.
(lxi) Propylhexedrine.
(lxii) Pyrovalerone.
(lxiii) Sibutramine.
(lxiv) Spa ((-)-1-dimethylamino-1,2-diphenylethane).

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

(i) Any substance ~~which~~ THAT contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted.
(ii) Alprazolam.
(iii) Bromazepam.
(iv) Camazepam.
(v) Carisoprodol.
(vi) Chloral betaine.
(vii) Chloral hydrate.

(viii) Chlordiazepoxide.
(ix) Chlorhexadol.
(x) Clobazam.
(xi) Clonazepam.
(xii) Clorazepate.
(xiii) Clotiazepam.
(xiv) Cloxazolam.
(xv) Delorazepam.
(xvi) Diazepam.
(xvii) Dichloralphenazone.
(xviii) Estazolam.
(xix) Ethchlorvynol.
(xx) Ethinamate.
(xxi) Ethyl loflazepate.
(xxii) Etizolam.
(xxiii) Fenfluramine.
(xxiv) Fludiazepam.
(xxv) Flunitrazepam.
(xxvi) Flurazepam.
(xxvii) Gamma hydroxy butyrate.
(xxviii) Glutethimide.
(xxix) Halazepam.
(xxx) Haloxazolam.
(xxxi) Hydroxyphencyclidine (HO-PCP).
(xxxii) Ketamine.
(xxxiii) Ketazolam.
(xxxiv) Loprazolam.
(xxxv) Lorazepam.
(xxxvi) Lormetazepam.
(xxxvii) Lysergic acid.
(xxxviii) Mebutamate.
(xxxix) Mecloqualone.
(xl) Medazepam.
(xli) Meprobamate.
(xlii) Methaqualone.
(xliii) Methohexital.
(xliv) 2-(methoxyphenyl)-2-(ethylamino)cyclohexanone (Methoxetamine).
(xlv) 2-(methoxyphenyl)-2-(methylamino)cyclohexanone (Methoxyketamine).
(xlvi) Methoxyphencyclidine(MeO-PCP).
(xlvii) Methyprylon.
(xlviii) Midazolam.
(xlix) Nimetazepam.
(l) Nitrazepam.

(li) Nordiazepam.
(lii) Oxazepam.
(liii) Oxazolam.
(liv) Paraldehyde.
(lv) Petrichloral.
(lvi) Phencyclidine (PCP).
(lvii) Phencyclidine mimetic substances that are any substances derived from phenylcyclohexylpiperidine by any substitution at the phenyl ring, any substitution at the piperidine ring, any substitution at the cyclohexyl ring, any replacement of the phenyl ring or any combination of the above. Substances in the phenylcyclohexylpiperidine generic definition include Amino-PCP, BCP, Bromo-PCP, BTCP, Chloro-PCP, Fluoro-PCP, HO-PCP, MeO-PCP, Methyl-PCP, Nitro-PCP, Oxo-PCP, PCE, PCM, PCPY, TCP and TCPY.
(lviii) Pinazepam.
(lix) Prazepam.
(lx) Scopolamine.
(lxi) Sulfondiethylmethane.
(lxii) Sulfonethylmethane.
(lxiii) Sulfonmethane.
(lxiv) Quazepam.
(lxv) Temazepam.
(lxvi) Tetrazepam.
(lxvii) Tiletamine.
(lxviii) Triazolam.
(lxix) Zaleplon.
(lxx) Zolazepam.
(lxxi) Zolpidem.
(lxxii) Zopiclone.

(e) Any material, compound, mixture or preparation that contains any quantity of the following anabolic steroids and their salts, isomers or esters:

(i) Boldenone.
(ii) Clostebol (4-chlorotestosterone).
(iii) Dehydrochloromethyltestosterone.
(iv) Drostanolone.
(v) Ethylestrenol.
(vi) Fluoxymesterone.
(vii) Formebulone (formebolone).
(viii) Mesterolone.
(ix) Methandriol.
(x) Methandrostenolone (methandienone).
(xi) Methenolone.
(xii) Methyltestosterone.
(xiii) Mibolerone.

(xiv) Nandrolone.
(xv) Norethandrolon.
(xvi) Oxandrolone.
(xvii) Oxymesterone.
(xviii) Oxymetholone.
(xix) Stanolone (4-dihydrotestosterone).
(xx) Stanozolol.
(xxi) Testolactone.
(xxii) Testosterone.
(xxiii) Trenbolone.

~~7.~~ 6. "Deliver" means the actual, constructive or attempted exchange from one person to another, whether or not there is an agency relationship.

~~8.~~ 7. "Director" means the director of the department of health services.

~~9.~~ 8. "Dispense" means distribute, leave with, give away, dispose of or deliver.

~~10.~~ 9. "Drug court program" means a program that is established pursuant to section 13-3422 by the presiding judge of the superior court in cooperation with the county attorney in a county for the purpose of prosecuting, adjudicating and treating drug dependent persons who meet the criteria and guidelines for entry into the program that are developed and agreed on by the presiding judge and the prosecutor.

~~11.~~ 10. "Drug dependent person" means a person who is using a substance that is listed in paragraph ~~6,~~ 5, 18, 19, 20~~, 21~~ or ~~28~~ 27 of this section and who is in a state of psychological or physical dependence, or both, arising from the use of that substance.

~~12.~~ 11. "Federal act" has the same meaning prescribed in section 32-1901.

~~13.~~ 12. "Isoamidone" means any substance identified chemically as (4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3), or any salt of such substance, by whatever trade name designated.

~~14.~~ 13. "Isonipecaine" means any substance identified chemically as (1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester), or any salt of such substance, by whatever trade name designated.

~~15.~~ 14. "Ketobemidone" means any substance identified chemically as (4-(3-hydroxyphenyl)-1-methyl-4-piperidylethyl ketone hydrochloride), or any salt of such substance, by whatever trade name designated.

~~16.~~ 15. "Licensed" or "permitted" means authorized by the laws of this state to do certain things.

~~17.~~ 16. "Manufacture" means produce, prepare, propagate, compound, mix or process, directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging or labeling or relabeling of containers.

Manufacture does not include any producing, preparing, propagating, compounding, mixing, processing, packaging or labeling done in conformity with applicable state and local laws and rules by a licensed practitioner incident to and in the course of his licensed practice.

~~18.~~ 17. "Manufacturer" means a person who manufactures a narcotic or dangerous drug or other substance controlled by this chapter.

~~19.~~ 18. "Marijuana":

(a) means:

(i) All parts of any plant of the genus cannabis~~, from which the resin has not been extracted, whether growing or not,~~ and the seeds of ~~such~~ THE plant. ~~Marijuana does not include the mature stalks of such plant or the sterilized seed of such plant which is incapable of germination.~~

(ii) THE RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS.

(iii) EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE RESIN OR TETRAHYDROCANNABINOL.

(b) INCLUDES PLANT MATERIAL FROM WHICH THE RESIN HAS NOT BEEN EXTRACTED.

(c) DOES NOT INCLUDE THE MATURE STALKS OF THE PLANT OR THE STERILIZED SEED OF THE PLANT THAT IS INCAPABLE OF GERMINATION.

~~20.~~ 19. "Narcotic drugs" means the following, whether of natural or synthetic origin and any substance neither chemically nor physically distinguishable from them:

(a) Acetyl-alpha-methylfentanyl.
(b) Acetylmethadol.
(c) Alfentanil.
(d) Allylprodine.
(e) Alphacetylmethadol.
(f) Alphameprodine.
(g) Alphamethadol.
(h) Alpha-methylfentanyl.
(i) Alpha-methylthiofentanyl.
(j) Alphaprodine.
(k) Amidone (methadone).
(l) Anileridine.
(m) Benzethidine.
(n) Benzylfentanyl.
(o) Betacetylmethadol.
(p) Beta-hydroxyfentanyl.
(q) Beta-hydroxy-3-methylfentanyl.
(r) Betameprodine.
(s) Betamethadol.
(t) Betaprodine.

(u) Bezitramide.

(v) Buprenorphine and its salts.

~~(w) Cannabis.~~

~~(x)~~ (w) Carfentanil.

~~(y)~~ (x) 4-chloro-n-[-1-[2-(4-nitrophenyl)ethyl]-2-piperidinylidene]benzenesulfonamide (W-18).

~~(z)~~ (y) 4-chloro-n-[1-(2-pheylethyl)-2-piperidinylidene] benzenesulfonamide (W-15).

~~(aa)~~ (z) Clonitazene.

~~(bb)~~ (aa) Coca leaves.

~~(cc)~~ (bb) 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (MT-45).

~~(dd)~~ (cc) Dextromoramide.

~~(ee)~~ (dd) Dextropropoxyphene.

~~(ff)~~ (ee) Diampromide.

~~(gg)~~ (ff) 3,4-dichloro-n-(-[1-(dimethylamino)cyclohexyl]methyl)-be nzamide (AH-7921).

~~(hh)~~ (gg) 3,4-dichloro-n-[2-(dimethylamino)cyclohexyl]-N-methylben zamide (U-47700).

~~(ii)~~ (hh) Diethylthiambutene.

~~(jj)~~ (ii) Difenoxin.

~~(kk)~~ (jj) Dihydrocodeine.

~~(ll)~~ (kk) Dimenoxadol.

~~(mm)~~ (ll) Dimepheptanol.

~~(nn)~~ (mm) Dimethylthiambutene.

~~(oo)~~ (nn) Dioxaphetyl butyrate.

~~(pp)~~ (oo) Diphenidine (DEP).

~~(qq)~~ (pp) Diphenoxylate.

~~(rr)~~ (qq) Dipipanone.

~~(ss)~~ (rr) Ephenidine.

~~(tt)~~ (ss) Ethylmethylthiambutene.

~~(uu)~~ (tt) Etonitazene.

~~(vv)~~ (uu) Etoxeridine.

~~(ww)~~ (vv) Fentanyl.

~~(xx)~~ (ww) Fentanyl mimetic substances that are any substances derived from fentanyl by any substitution in the phenethyl group, any substitution in the piperidine ring, any substitution in the aniline ring, any replacement of the phenyl portion of the phenethyl group, any replacement of the N-propionyl group or any combination of the above.

~~(yy)~~ (xx) Furethidine.

~~(zz)~~ (yy) Hydroxypethidine.

~~(aaa)~~ (zz) Isoamidone (isomethadone).

~~(bbb)~~ (aaa) Isophenidine.

~~(ccc)~~ (bbb) Pethidine (meperidine).

~~(ddd)~~ (ccc) Ketobemidone.

~~(eee)~~ (ddd) Lefetamine.

~~(fff)~~ (eee) Levomethorphan.
~~(ggg)~~ (fff) Levomoramide.
~~(hhh)~~ (ggg) Levophenacylmorphan.
~~(iii)~~ (hhh) Levorphanol.
~~(jjj)~~ (iii) Metazocine.
~~(kkk)~~ (jjj) Methoxphenidine (MXP).
~~(lll)~~ (kkk) 3-methylfentanyl.
~~(mmm)~~ (lll) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
~~(nnn)~~ (mmm) 3-methylthiofentanyl.
~~(ooo)~~ (nnn) Morpheridine.
~~(ppp)~~ (ooo) Noracymethadol.
~~(qqq)~~ (ppp) Norlevorphanol.
~~(rrr)~~ (qqq) Normethadone.
~~(sss)~~ (rrr) Norpipanone.
~~(ttt)~~ (sss) Opium.
~~(uuu)~~ (ttt) Para-fluorofentanyl.
~~(vvv)~~ (uuu) Pentazocine.
~~(www)~~ (vvv) Phenadoxone.
~~(xxx)~~ (www) Phenampromide.
~~(yyy)~~ (xxx) Phenazocine.
~~(zzz)~~ (yyy) 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
~~(aaaa)~~ (zzz) Phenomorphan.
~~(bbbb)~~ (aaaa) Phenoperidine.
~~(cccc)~~ (bbbb) Piminodine.
~~(dddd)~~ (cccc) Piritramide.
~~(eeee)~~ (dddd) Proheptazine.
~~(ffff)~~ (eeee) Properidine.
~~(gggg)~~ (ffff) Propiram.
~~(hhhh)~~ (gggg) Racemethorphan.
~~(iiii)~~ (hhhh) Racemoramide.
~~(jjjj)~~ (iiii) Racemorphan.
~~(kkkk)~~ (jjjj) Remifentanil.
~~(llll)~~ (kkkk) Sufentanil.
~~(mmmm)~~ (llll) Thenylfentanyl.
~~(nnnn)~~ (mmmm) Thiofentanyl.
~~(oooo)~~ (nnnn) Tilidine.
~~(pppp)~~ (oooo) Tramadol, 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl) cyclohexanol, and its salts, optical and geometric isomers, and its salts of isomers.
~~(qqqq)~~ (pppp) Trimeperidine.

~~21.~~ 20. "Opium" means any compound, manufacture, salt, isomer, salt of isomer, derivative, mixture or preparation of the following, but does not include apomorphine or any of its salts:

(a) Acetorphine.

(b) Acetyldihydrocodeine.

(c) Benzylmorphine.
(d) Codeine.
(e) Codeine methylbromide.
(f) Codeine-N-oxide.
(g) Cyprenorphine.
(h) Desomorphine.
(i) Dihydromorphine.
(j) Drotebanol.
(k) Ethylmorphine.
(l) Etorphine.
(m) Heroin.
(n) Hydrocodone.
(o) Hydromorphinol.
(p) Hydromorphone.
(q) Levo-alphacetylmethadol.
(r) Methyldesorphine.
(s) Methyldihydromorphine.
(t) Metopon.
(u) Morphine.
(v) Morphine methylbromide.
(w) Morphine methylsulfonate.
(x) Morphine-N-oxide.
(y) Myrophine.
(z) Nalorphine.
(aa) Nicocodeine.
(bb) Nicomorphine.
(cc) Normorphine.
(dd) Oxycodone.
(ee) Oxymorphone.
(ff) Pholcodine.
(gg) Thebacon.
(hh) Thebaine.

~~22.~~ 21. "Ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product" means a product that contains ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine and that is all of the following:

(a) Approved for sale under the federal act.

(b) Labeled, advertised and marketed only for an indication that is approved by the federal food and drug administration.

(c) Either:

(i) A nonliquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenlypropanolamine and that is packaged in blister packs containing not more than two dosage units or, if the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches.

(ii) A liquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine.

~~23.~~ 22. "Peyote" means any part of a plant of the genus lophophora, known as the mescal button.

~~24.~~ 23. "Pharmacy" means a licensed business where drugs are compounded or dispensed by a licensed pharmacist.

~~25.~~ 24. "Practitioner" means a person licensed to prescribe and administer drugs.

~~26.~~ 25. "Precursor chemical I" means any material, compound, mixture or preparation ~~which~~ THAT contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) N-acetylanthranilic acid.

(b) Anthranilic acid.

(c) Ephedrine.

(d) Ergotamine.

(e) Isosafrole.

(f) Lysergic acid.

(g) Methylamine.

(h) N-ethylephedrine.

(i) N-ethylpseudoephedrine.

(j) N-methylephedrine.

(k) N-methylpseudoephedrine.

(l) Norephedrine.

(m) (-)-Norpseudoephedrine.

(n) Phenylacetic acid.

(o) Phenylpropanolamine.

(p) Piperidine.

(q) Pseudoephedrine.

~~27.~~ 26. "Precursor chemical II" means any material, compound, mixture or preparation ~~which~~ THAT contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) 4-cyano-2-dimethylamino-4, 4-diphenyl butane.

(b) 4-cyano-1-methyl-4-phenylpiperidine.

(c) Chlorephedrine.

(d) Chlorpseudoephedrine.

(e) Ethyl-4-phenylpiperidine-4-carboxylate.

(f) 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

(g) 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(h) N-formyl amphetamine.

(i) N-formyl methamphetamine.

(j) Phenyl-2-propanone.

(k) 1-piperidinocyclohexane carbonitrile.

(l) 1-pyrrolidinocyclohexane carbonitrile.

~~28.~~ 27. "Prescription-only drug" does not include a dangerous drug or narcotic drug but means:

(a) Any drug ~~which~~ THAT because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug required by the federal act to bear on its label the legend "Caution: Federal law prohibits dispensing without prescription" or "Rx only".

~~29.~~ 28. "Produce" means grow, plant, cultivate, harvest, dry, process or prepare for sale.

~~30.~~ 29. "Regulated chemical" means the following substances in bulk form that are not a useful part of an otherwise lawful product:

(a) Acetic anhydride.

(b) Hypophosphorous acid.

(c) Iodine.

(d) Sodium acetate.

(e) Red phosphorus.

(f) Gamma butyrolactone (GBL).

(g) 1, 4-butanediol.

(h) Butyrolactone.

(i) 1, 2 butanolide.

(j) 2-oxanalone.

(k) Tetrahydro-2-furanone.

(l) Dihydro-2(3H)-furanone.

(m) Tetramethylene glycol.

~~31.~~ 30. "Retailer" means either:

(a) A person other than a practitioner who sells any precursor chemical or regulated chemical to another person for purposes of consumption and not resale, whether or not the person possesses a permit issued pursuant to title 32, chapter 18.

(b) A person other than a manufacturer or wholesaler who purchases, receives or acquires more than twenty-four grams of a precursor chemical.

~~32.~~ 31. "Sale" or "sell" means an exchange for anything of value or advantage, present or prospective.

~~33.~~ 32. "Sale for personal use" means the retail sale for a legitimate medical use in a single transaction to an individual customer,

to an employer for dispensing to employees from first aid kits or medicine chests or to a school for administration pursuant to section 15-344.

~~34.~~ 33. "Scientific purpose" means research, teaching or chemical analysis.

~~35.~~ 34. "Suspicious transaction" means a transaction to which any of the following applies:

(a) A report is required under the federal act.

(b) The circumstances would lead a reasonable person to believe that any person is attempting to possess a precursor chemical or regulated chemical for the purpose of unlawful manufacture of a dangerous drug or narcotic drug, based on such factors as the amount involved, the method of payment, the method of delivery and any past dealings with any participant.

(c) The transaction involves payment for precursor or regulated chemicals in cash or money orders in a total amount of more than ~~two hundred dollars~~ $200.

(d) The transaction involves a sale, a transfer or furnishing to a retailer for resale without a prescription of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine that is not an ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product.

~~36.~~ 35. "Threshold amount" means a weight, market value or other form of measurement of an unlawful substance as follows:

(a) One gram of heroin.

(b) Nine grams of cocaine.

(c) Seven hundred fifty milligrams of cocaine base or hydrolyzed cocaine.

(d) Four grams or 50 milliliters of PCP.

(e) Nine grams of methamphetamine, including methamphetamine in liquid suspension.

(f) Nine grams of amphetamine, including amphetamine in liquid suspension.

(g) One-half milliliter of lysergic acid diethylamide, or in the case of blotter dosage units fifty dosage units.

(h) Two pounds of marijuana.

(i) For any combination consisting solely of those unlawful substances listed in subdivisions (a) through (h) of this paragraph, an amount equal to or in excess of the threshold amount, as determined by the application of section 13-3420.

(j) For any unlawful substance not listed in subdivisions (a) through (h) of this paragraph or any combination involving any unlawful substance not listed in subdivisions (a) through (h) of this paragraph, a value of at least ~~one thousand dollars~~ $1,000.

~~37.~~ 36. "Transfer" means furnish, deliver or give away.

~~38.~~ 37. "Vapor-releasing substance containing a toxic substance" means a material ~~which~~ THAT releases vapors or fumes containing any of the following:

(a) Ketones, including acetone, methyl ethyl ketone, mibk, miak, isophorone and mesityl oxide.

(b) Hydrocarbons, including propane, butane, pentane, hexane, heptane and halogenated hydrocarbons.

(c) Ethylene dichloride.

(d) Pentachlorophenol.

(e) Chloroform.

(f) Methylene chloride.

(g) Trichloroethylene.

(h) Difluoroethane.

(i) Tetrafluoroethane.

(j) Aldehydes, including formaldehyde.

(k) Acetates, including ethyl acetate and butyl acetate.

(l) Aromatics, including benzene, toluene, xylene, ethylbenzene and cumene.

(m) Alcohols, including methyl alcohol, ethyl alcohol, isopropyl alcohol, butyl alcohol and diacetone alcohol.

(n) Ether, including Diethyl ether and petroleum ether.

(o) Nitrous oxide.

(p) Amyl nitrite.

(q) Isobutyl nitrite.

~~39.~~ 38. "Weight" unless otherwise specified includes the entire weight of any mixture or substance that contains a detectable amount of an unlawful substance. If a mixture or substance contains more than one unlawful substance, the weight of the entire mixture or substance is assigned to the unlawful substance that results in the greater offense. If a mixture or substance contains lysergic acid diethylamide, the offense that results from the unlawful substance shall be based on the greater offense as determined by the entire weight of the mixture or substance or the number of blotter dosage units. For the purposes of this paragraph, "mixture" means any combination of substances from which the unlawful substance cannot be removed without a chemical process.

~~40.~~ 39. "Wholesaler" means a person who in the usual course of business lawfully supplies narcotic drugs, dangerous drugs, precursor chemicals or regulated chemicals that he himself has not produced or prepared, but not to a person for the purpose of consumption by the person, whether or not the wholesaler has a permit that is issued pursuant to title 32, chapter 18. Wholesaler includes a person who sells, delivers or dispenses a precursor chemical in an amount or under circumstances that would require registration as a distributor of precursor chemicals under the federal act.

Sec. 4. Section 15-712, Arizona Revised Statutes, is amended to read:

15-712. Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions

A. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs on the human system and instruction on the laws related to the control of these substances and the nonuse and prevention of use and abuse of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs may be included in the courses of study in common and high schools, with emphasis on grades four through nine. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs on a human fetus may be included in the courses of study in grades six through twelve. The instruction may be integrated into existing health, science, citizenship or similar studies and shall meet the criteria for chemical abuse prevention education programs developed pursuant to subsection C of this section.

B. At the request of a school district, the department of education shall provide technical assistance to school districts that choose to implement programs to prevent chemical abuse.

C. The department of education and the department of health services~~, in consultation with the committee established pursuant to section 41-617,~~ shall establish an interagency committee to coordinate their assistance to school districts.

D. The state board of education may accept gifts and grants and shall distribute them and monies appropriated for chemical abuse prevention programs to school districts to assist with the costs of programs designed to prevent chemical abuse by pupils in kindergarten programs and grades one through twelve. School districts ~~which~~ THAT have approved chemical abuse prevention policies and procedures as prescribed in section 15-345 are eligible for a maximum of ~~one dollar~~ $1 for each pupil or ~~one thousand dollars~~ $1,000, whichever is more. If sufficient monies are not available to meet all requests, the state board shall determine which school districts to fund based on need, availability of other programs or sources of revenue and the likelihood of the school district's proposed program successfully meeting needs identified by the school district. A school district shall include the monies it receives for chemical abuse prevention programs under this section in the special projects section of the budget as provided in section 15-903, subsection F.

E. For the purpose of this section:

1. "Date rape drug" means a drug ~~prescribed~~ LISTED in section 13-3401, paragraph ~~30~~ 29, subdivisions (f) through (m).

2. "Narcotic drug", "marijuana" and "dangerous drug" have the same ~~meaning~~ MEANINGS prescribed in section 13-3401.

Sec. 5. Section 32-1901, Arizona Revised Statutes, is amended to read:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:

(a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee or permittee.

(b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

(c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee or permittee.

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Automated prescription-dispensing kiosk" means a mechanical system that is operated as an extension of a pharmacy, that maintains all transaction information within the pharmacy operating system, that is separately permitted from the pharmacy and that performs operations that either:

(a) Accept a prescription or refill order, store prepackaged or repackaged medications, label and dispense patient-specific prescriptions and provide counseling on new or refilled prescriptions.

(b) Dispense or deliver a prescription or refill that has been prepared by or on behalf of the pharmacy that oversees the automated prescription-dispensing kiosk.

7. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

8. "Certificate of composition" means a list of a product's ingredients.

9. "Certificate of free sale" means a document that authenticates a product that is generally and freely sold in domestic or international channels of trade.

10. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

11. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

12. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

13. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

14. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

15. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

16. "Controlled substance" means a drug, substance or immediate precursor that is identified, defined or listed in title 36, chapter 27, article 2.

17. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

18. "Counterfeit drug" means a drug that, 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 of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

19. "Dangerous drug" has the same meaning prescribed in section 13-3401.

20. "Day" means a business day.

21. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

22. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

23. "Deputy director" means a pharmacist who is employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

24. "Device", except as used in paragraph 18 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatuses and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

25. "Director" means the director of the division of narcotics enforcement and criminal ~~investigation~~ INTELLIGENCE of the department of public safety.

26. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

27. "Dispense" means to deliver 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 for that delivery.

28. "Dispenser" means a practitioner who dispenses.

29. "Distribute" means to deliver, other than by administering or dispensing.

30. "Distributor" means a person who distributes.

31. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

32. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

33. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

34. "Economic poison" means any substance that alone, in chemical combination with or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.

35. "Enteral feeding" means nourishment provided by means of a tube inserted into the stomach or intestine.

36. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, the common or usual name of the drug.

37. "Executive director" means the executive director of the board of pharmacy.

38. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are

official at the time any drug, device, poison or hazardous substance is affected by this chapter.

39. "Full service wholesale permittee":

(a) Means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

(b) Includes a virtual wholesaler as defined in rule by the board.

40. "Good manufacturing practice" means a system for ensuring that products are consistently produced and controlled according to quality standards and covering all aspects of design, monitoring and control of manufacturing processes and facilities to ensure that products do not pose any risk to the consumer or public.

41. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

42. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

43. "Intern" means a pharmacy intern.

44. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

45. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

46. "Jurisprudence examination" means a board-approved pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another board-approved pharmacy law examination.

47. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

48. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

49. "Letter of reprimand" means a disciplinary letter that is a public document issued by the board and that informs a licensee or permittee that the licensee's or permittee's conduct violates state or federal law and may require the board to monitor the licensee or permittee.

50. "Limited service pharmacy" means a pharmacy that is approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

51. "Manufacture" or "manufacturer":

(a) Means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, that is devoted to manufacturing the drug.

(b) Includes a virtual manufacturer as defined in rule by the board.

52. "Marijuana" has the same meaning prescribed in section 13-3401.

53. "Medical practitioner" means any medical doctor, doctor of osteopathic medicine, dentist, podiatrist, veterinarian or other person who is licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

54. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

55. "Narcotic drug" has the same meaning prescribed in section 13-3401.

56. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

57. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and that is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only".

(d) A drug that is intended for human use by hypodermic injection.

58. "Nonprescription drug wholesale permittee":

(a) Means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

(b) Includes a virtual wholesaler as defined in rule by the board.

59. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

60. "Nutritional supplementation" means vitamins, minerals and caloric supplementation. Nutritional supplementation does not include medication or drugs.

61. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

62. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

63. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

64. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

65. "Parenteral nutrition" means intravenous feeding that provides a person with fluids and essential nutrients the person needs while the person is unable to receive adequate fluids or feedings by mouth or by enteral feeding.

66. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

67. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

68. "Pharmacist" means an individual who is currently licensed by the board to practice the profession of pharmacy in this state.

69. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

70. "Pharmacist licensure examination" means a board-approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board-approved pharmacist licensure examination.

71. "Pharmacy":

(a) Means:

(i) Any place where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(ii) Any place in which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(iii) Any place that has displayed on it or in it the words "pharmacist", "pharmaceutical chemist", "apothecary", "druggist", "pharmacy", "drugstore", "drugs" or "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(iv) Any place where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(v) Any place or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

(vi) A remote dispensing site pharmacy. ~~where a pharmacy technician or pharmacy intern prepares, compounds or dispenses prescription medications under remote supervision by a pharmacist.~~

(b) Includes a satellite pharmacy.

72. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

73. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

74. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

75. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its

inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance that is designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

76. "Practice of pharmacy":

(a) Means furnishing the following health care services as a medical professional:

(i) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

(ii) Compounding drugs pursuant to or in anticipation of a prescription order.

(iii) Labeling drugs and devices in compliance with state and federal requirements.

(iv) Participating in drug selection and drug utilization reviews, drug administration, drug or drug-related research and drug therapy monitoring or management.

(v) Providing patient counseling necessary to provide pharmaceutical care.

(vi) Properly and safely storing drugs and devices in anticipation of dispensing.

(vii) Maintaining required records of drugs and devices.

(viii) Offering or performing acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

(ix) Initiating, monitoring and modifying drug therapy pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970.

(x) Initiating and administering immunizations or vaccines pursuant to section 32-1974.

(b) Does not include initiating a prescription order for any medication, drug or other substance used to induce or cause a medication abortion as defined in section 36-2151.

77. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person who is 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 in this state, or any pharmacy, hospital or other institution that is 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 in this state.

78. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and complies with section 32-1923.

79. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph 25 OR 26 ~~or 27~~.

80. "Prescription" means either a prescription order or a prescription medication.

81. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

82. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

83. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

84. "Prescription order" means any of the following:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964, and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

(c) An order initiated by a pharmacist pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970, or immunizations or vaccines administered by a pharmacist pursuant to section 32-1974.

(d) A diet order or an order for enteral feeding, nutritional supplementation or parenteral nutrition that is initiated by a registered dietitian or other qualified nutrition professional in a hospital pursuant to section 36-416.

85. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors, including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist or pharmacy intern who fails to obtain a passing score on a board-approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board-approved pharmacy technician licensure examination.

86. "Radioactive substance" means a substance that emits ionizing radiation.

87. "Remote dispensing site pharmacy" means a pharmacy where a pharmacy technician or pharmacy intern prepares, compounds or dispenses prescription medications under remote supervision by a pharmacist.

88. "Remote supervision by a pharmacist" means that a pharmacist directs and controls the actions of pharmacy technicians and pharmacy interns through the use of audio and visual technology.

89. "Revocation" or "revoke" means the official cancellation of a license, permit, registration or other approval authorized by the board for a period of two years unless otherwise specified by the board. A request or new application for reinstatement may be presented to the board for review before the conclusion of the specified revocation period upon review of the executive director.

90. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

91. "Satellite pharmacy" means a work area located within a hospital or on a hospital campus that is not separated by other commercial property or residential property, that is under the direction of a pharmacist, that is a remote extension of a centrally licensed hospital pharmacy, ~~and~~ that is owned by and dependent on the centrally licensed hospital pharmacy for administrative control, staffing and drug procurement and that is not required to be separately permitted.

92. "Symbol" means the characteristic symbols that have historically identified pharmacy, including show globes and mortar and pestle, and the sign "Rx".

93. "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistics services for a prescription or over-the-counter dangerous drug or dangerous device in intrastate or interstate commerce on behalf of a manufacturer, wholesaler or dispenser of the prescription or over-the-counter dangerous drug or dangerous device but that does not take ownership of the prescription or over-the-counter dangerous drug or dangerous device or have responsibility to direct its sale or disposition.

94. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

95. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

Sec. 6. Section 32-1904, Arizona Revised Statutes, is amended to read:

32-1904. Powers and duties of board; immunity

A. The board shall:

1. Make bylaws and adopt rules that are necessary for the protection of the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

2. Fix standards and requirements for the registration and reregistration of pharmacies, except as otherwise specified.

3. Investigate compliance as to the quality, label and labeling of all drugs, devices, poisons or hazardous substances and take action necessary to prevent the sale of these if they do not conform to the standards prescribed in this chapter, the official compendium or the federal act.

4. Enforce its rules. In so doing, the board or its agents have free access at all reasonable hours to any pharmacy, manufacturer, wholesaler, third-party logistics provider, nonprescription drug permittee or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose of:

(a) Inspecting the establishment or vehicle to determine if any provisions of this chapter or the federal act are being violated.

(b) Securing samples or specimens of any drug, device, poison or hazardous substance after paying or offering to pay for such sample.

(c) Detaining or embargoing a drug, device, poison or hazardous substance in accordance with section 32-1994.

5. Examine and license as pharmacists and pharmacy interns all qualified applicants as provided by this chapter.

6. Require each applicant for an initial license to apply for a fingerprint clearance card pursuant to section 41-1758.03. If an applicant is issued a valid fingerprint clearance card, the applicant shall submit the valid fingerprint clearance card to the board with the completed application. If an applicant applies for a fingerprint clearance card and is denied, the applicant may request that the board consider the application for licensure notwithstanding the absence of a valid fingerprint clearance card. The board, in its discretion, may approve an application for licensure despite the denial of a valid fingerprint clearance card if the board determines that the applicant's criminal history information on which the denial was based does not alone disqualify the applicant from licensure.

7. Issue duplicates of lost or destroyed permits on the payment of a fee as prescribed by the board.

8. Adopt rules for the rehabilitation of pharmacists and pharmacy interns as provided by this chapter.

9. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the board of podiatry examiners, board of dental examiners, Arizona medical board, board of nursing, board of osteopathic

examiners in medicine and surgery, veterinary medical examining board, Arizona regulatory board of physician assistants, board of optometry or board of homeopathic and integrated medicine examiners.

B. The board may:

1. Employ chemists, compliance officers, clerical help and other employees subject to title 41, chapter 4, article 4 and provide laboratory facilities for the proper conduct of its business.

2. Provide, by education of and information to the licensees and to the public, assistance in the curtailment of abuse in the use of drugs, devices, poisons and hazardous substances.

3. Approve or reject the manner of storage and security of drugs, devices, poisons and hazardous substances.

4. Accept monies and services to assist in the enforcement of this chapter from other than licensees:

(a) For performing inspections and other board functions.

(b) For the cost of copies of the pharmacy and controlled substances laws, the annual report of the board and other information from the board.

5. Adopt rules for professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

6. Grant permission to deviate from a state requirement for experimentation and technological advances.

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

8. Investigate alleged violations of this chapter, conduct hearings in respect to violations, subpoena witnesses and take such action as it deems necessary to revoke or suspend a license or a permit, place a licensee or permittee on probation or warn a licensee or permittee under this chapter or to bring notice of violations to the county attorney of the county in which a violation took place or to the attorney general.

9. By rule, approve colleges or schools of pharmacy.

10. By rule, approve programs of practical experience, clinical programs, internship training programs, programs of remedial academic work and preliminary equivalency examinations as provided by this chapter.

11. Assist in the continuing education of pharmacists and pharmacy interns.

12. Issue inactive status licenses as provided by this chapter.

13. Accept monies and services from the federal government or others for educational, research or other purposes pertaining to the enforcement of this chapter.

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph ~~6~~ 5, subdivision (c) or (d) from the definition of dangerous drug if the

material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

15. Adopt rules for the revocation, suspension or reinstatement of licenses or permits or the probation of licensees or permittees as provided by this chapter.

16. Issue a certificate of free sale to any person that is licensed by the board as a manufacturer for the purpose of manufacturing or distributing food supplements or dietary supplements as defined in rule by the board and that wants to sell food supplements or dietary supplements domestically or internationally. The application shall contain all of the following:

(a) The applicant's name, address, e-mail address, telephone and fax number.

(b) The product's full, common or usual name.

(c) A copy of the label for each product listed. If the product is to be exported in bulk and a label is not available, the applicant shall include a certificate of composition.

(d) The country of export, if applicable.

(e) The number of certificates of free sale requested.

17. Establish an inspection process for the issuance of certificates of free sale or good manufacturing practice certifications. The board shall establish in rule:

(a) A fee for the issuance of certificates of free sale.

(b) A fee for the issuance of good manufacturing practice certifications.

(c) An annual inspection fee.

C. The executive director and other personnel or agents of the board are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

~~Sec. 7. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, title 36, chapter 28.1, Arizona Revised Statutes, is amended by adding section 36-2803.01, to read:~~

~~36-2803.01. New dispensary registration certificates; issuance; priority; requirements; definition~~

~~A. BEGINNING ON APRIL 1, 2020, THE DEPARTMENT SHALL ISSUE ALL NEW NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES IN THE FOLLOWING ORDER OF PRIORITY BASED ON THE DISPENSARY'S GEOGRAPHIC AREA AS DESCRIBED IN THE REGISTRATION CERTIFICATE APPLICATION:~~

~~1. THE GEOGRAPHIC AREA HAD A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY MOVE FROM THE GEOGRAPHIC AREA AND THE GEOGRAPHIC AREA IS AT~~

~~LEAST TWENTY FIVE MILES FROM ANOTHER DISPENSARY THAT HAS BEEN ISSUED A DISPENSARY REGISTRATION CERTIFICATE.~~

~~2. THE GEOGRAPHIC AREA IS AT LEAST TWENTY FIVE MILES FROM ANOTHER DISPENSARY THAT HAS BEEN ISSUED A DISPENSARY REGISTRATION CERTIFICATE.~~

~~3. ACCORDING TO RULE, IF THERE ARE NO DISPENSARY REGISTRATION CERTIFICATE APPLICATIONS AS DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.~~

~~B. IF THE DEPARTMENT RECEIVES MULTIPLE APPLICATIONS AS DESCRIBED IN SUBSECTION A, PARAGRAPH 1 OF THIS SECTION FROM PREVIOUSLY APPROVED NONPROFIT MEDICAL MARIJUANA DISPENSARY LOCATIONS, THE DEPARTMENT SHALL APPROVE THE CERTIFICATE FOR THE APPLICATION THAT SERVES THE MOST QUALIFYING PATIENTS WITHIN FIVE MILES OF THE PROPOSED DISPENSARY LOCATION. IF THE DEPARTMENT RECEIVES MULTIPLE APPLICATIONS AS DESCRIBED IN SUBSECTION A, PARAGRAPH 2 OF THIS SECTION OR IF THERE ARE NO APPLICATIONS FROM PREVIOUSLY APPROVED DISPENSARY LOCATIONS, THE DEPARTMENT MAY ISSUE THE REGISTRATION CERTIFICATE BY RANDOM DRAWING.~~

~~C. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT RECEIVES A REGISTRATION CERTIFICATE PURSUANT TO SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION ON OR AFTER APRIL 1, 2020 MUST OPEN THE DISPENSARY AT THE APPROVED LOCATION WITHIN EIGHTEEN MONTHS AFTER THE APPLICATION IS APPROVED OR THE REGISTRATION CERTIFICATE BECOMES INVALID.~~

~~D. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS ISSUED A REGISTRATION CERTIFICATE PURSUANT TO SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION MAY RELOCATE ONLY AS FOLLOWS:~~

~~1. IF THE DISPENSARY IS LOCATED WITHIN A CITY OR TOWN, ONLY WITHIN THAT CITY OR TOWN.~~

~~2. IF THE DISPENSARY IS LOCATED WITHIN AN UNINCORPORATED AREA, ONLY WITHIN THE UNINCORPORATED AREA OF THE COUNTY WHERE THE DISPENSARY IS LOCATED BUT NOT WITHIN TWENTY FIVE MILES FROM ANOTHER DISPENSARY THAT HAS BEEN ISSUED A DISPENSARY REGISTRATION CERTIFICATE.~~

~~E. FOR THE PURPOSES OF THIS SECTION, "GEOGRAPHIC AREA" MEANS A CITY, TOWN OR UNINCORPORATED AREA OF A COUNTY.~~

~~Sec. 8. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 36-2804, Arizona Revised Statutes, is amended to read:~~

~~36-2804. Registration and certification of nonprofit medical marijuana dispensaries; transfer of registration certificate~~

~~A. Nonprofit medical marijuana dispensaries shall register with the department.~~

~~B. Not later than ninety days after receiving an application for a nonprofit medical marijuana dispensary, the department shall register the nonprofit medical marijuana dispensary and issue a registration certificate and a random 20 digit TWENTY DIGIT alphanumeric identification number if:~~

~~1. The prospective nonprofit medical marijuana dispensary has submitted the following:~~

~~(a) The application fee.~~

~~(b) An application, including:~~

~~(i) The legal name of the nonprofit medical marijuana dispensary.~~

~~(ii) The physical address of the nonprofit medical marijuana dispensary and the physical address of one additional location, if any, where marijuana will be cultivated, neither of which may be within five hundred feet of a public or private school existing before the date of the nonprofit medical marijuana dispensary application.~~

~~(iii) The name, address and date of birth of each principal officer and board member of the nonprofit medical marijuana dispensary.~~

~~(iv) The name, address and date of birth of each nonprofit medical marijuana dispensary agent.~~

~~(c) Operating procedures consistent with department rules for oversight of the nonprofit medical marijuana dispensary, including procedures to ensure accurate record keeping RECORDKEEPING and adequate security measures.~~

~~(d) If the city, town or county in which the nonprofit medical marijuana dispensary would be located has enacted zoning restrictions, a sworn statement certifying that the registered nonprofit medical marijuana dispensary is in compliance with the restrictions.~~

~~2. None of the principal officers or board members has been convicted of an excluded felony offense.~~

~~3. None of the principal officers or board members has served as a principal officer or board member for a registered nonprofit medical marijuana dispensary that has had its registration certificate revoked.~~

~~4. None of the principal officers or board members is under twenty one years of age.~~

~~C. The department may not issue more than one nonprofit medical marijuana dispensary registration certificate for every ten pharmacies that have registered under section 32-1929, have obtained a pharmacy permit from the Arizona STATE board of pharmacy and operate within the state except that the department may issue nonprofit medical marijuana dispensary registration certificates in excess of this limit if necessary to ensure that the department issues at least one nonprofit medical marijuana dispensary registration certificate in each county in which an application has been approved.~~

~~D. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY NOT TRANSFER OR ASSIGN ITS DISPENSARY REGISTRATION CERTIFICATE UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET, IN WHICH CASE THE DEPARTMENT SHALL ISSUE A REPLACEMENT DISPENSARY REGISTRATION CERTIFICATE IN THE NAME OF THE TRANSFEREE OR ASSIGNEE:~~

~~1. THE TRANSFERRING DISPENSARY HOLDS MORE THAN ONE DISPENSARY REGISTRATION CERTIFICATE.~~

~~2. ALL DISPENSARY REGISTRATION CERTIFICATES HELD BY THE TRANSFERRING DISPENSARY WERE INITIALLY ISSUED MORE THAN FIVE YEARS BEFORE THE APPLICATION DATE TO TRANSFER OR ASSIGN THE DISPENSARY REGISTRATION CERTIFICATE.~~

~~3. THE TRANSFERRING DISPENSARY WISHES TO TRANSFER THE DISPENSARY REGISTRATION CERTIFICATE TO AN ENTITY THAT HAS THE SAME PRINCIPAL OFFICERS OR BOARD MEMBERS AS THE TRANSFERRING DISPENSARY AT THE TIME OF THE TRANSFER OR ASSIGNMENT.~~

~~4. THE TRANSFEREE OR ASSIGNEE MEETS ALL OF THE CRITERIA NECESSARY FOR THE ISSUANCE OF A DISPENSARY REGISTRATION CERTIFICATE.~~

~~D.~~ E. ~~The department may conduct a criminal records check in order to carry out this section.~~

~~Sec. 9. Department of health services; rulemaking exemption~~

~~Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, for the purposes of section 36-2803.01, Arizona Revised Statutes, as added by this act, the department of health services is exempt from the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, for nine months after the effective date of this act.~~

Sec. 10. Intent

The legislature intends to prospectively establish prioritization for the nonprofit medical marijuana dispensary registration certificates that may be allocated to applicants and locations. It is not the legislature's intent to exceed the limit on the number of registration certificates that may be issued as specified in section 36-2804, Arizona Revised Statutes.

~~Sec. 11. Requirements for enactment; three fourths vote~~

~~Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 36-2803.01, Arizona Revised Statutes, as added by this act, section 36-2804, Arizona Revised Statutes, as amended by this act, and section 9 of this act are effective only on the affirmative vote of at least three fourths of the members of each house of the legislature.~~