

[S. B. 363]

PUBLIC HEALTH AND WELFARE: Division of health.

AN ACT to repeal section 192.030, RSMo 1969, relating to the division of health of the department of public health and welfare and to enact in lieu thereof one new section relating to the same subject.

SUBJECT

1. Enacting clause.

SUBJECT

192.030. Director of health—qualifications—salary.

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

Section 1. Enacting clause.—Section 192.030, RSMo 1969 is repealed and one new section enacted in lieu thereof, to be known as section 192.030, to read as follows:

192.030. Director of health—qualifications—salary.—The chief administrative officer of the division of health shall be the director of health, who shall be a physician in good standing, of recognized professional and scientific knowledge and a graduate of a reputable school of the healing arts especially trained in sanitary science. The director shall receive as a salary a sum of thirty-five thousand dollars annually, together with traveling and other expenses necessary to the performance of his official duties.

Approved July 22, 1971.

[S. C. S. H. C. S. H. B. 69]

PUBLIC HEALTH AND WELFARE: Drug regulations.

AN ACT to repeal sections 195.010, 195.020, 195.025, 195.030, 195.040, 195.050, 195.060, 195.070, 195.080, 195.090, 195.100, 195.110, 195.120, 195.130, 195.135, 195.140, 195.160, 195.170, 195.190, 195.195, 195.200, 195.210, 195.220, 195.230, 195.240, 195.250, 195.260, and 195.270 RSMo 1969, relating to certain narcotics and controlled dangerous drugs and to enact in lieu thereof thirty-six new sections relating to the same subject, with penalty provisions.

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

Section A. Enacting clause.—Sections 195.010, 195.020, 195.025, 195.030, 195.040, 195.050, 195.060, 195.070, 195.080, 195.090, 195.100, 195.110, 195.120, 195.130, 195.135, 195.140, 195.160, 195.170, 195.190, 195.195, 195.200, 195.210, 195.220, 195.230, 195.240, 195.250, 195.260, 195.270 RSMo 1969, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 195.010, 195.015, 195.016, 195.017, 195.020, 195.025, 195.030, 195.040, 195.050, 195.060, 195.070, 195.080, 195.100, 195.110, 195.130, 195.135, 195.140, 195.160, 195.170, 195.190, 195.195, 195.197, 195.198, 195.200, 195.210, 195.220, 195.230, 195.240, 195.250, 195.260, 195.270, 195.280, 195.290, 195.300, 195.310, and 195.320, RSMo.

195.010. Definitions.—The following words and phrases as used in this chapter have the following meanings, unless the context otherwise requires:

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

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

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

(2) the patient or research subject at the direction and in the presence of the practitioner.

(3) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

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

(5) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency;

(6) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V listed in this chapter;

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

(8) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

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

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

(11) "Dispense" means to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses. Deliver means the actual, constructive or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship and includes a sale;

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

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

(14) "Drug" means substances recognized as drugs in the official United States Pharmacopocia, Official Homeopathic Pharmacopocia of the United States, or Official National Formulary, or any supplement to any of them; substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; substances, other than food, intended to affect the structure or any function of the body of man or animals; and substances intended for use as a component of any article specified in this definition. It does not include devices or their components, parts, or accessories;

(15) "Federal narcotic laws" means the laws of the United States relating to controlled substances;

(16) "Hospital" means a place or institution devoted primarily to the purpose of providing facilities for the diagnosis, care or treatment of sick, injured, or the handicapped individuals and licensed by the division of health of Missouri in keeping with the requirements of the "Hospital Licensing Law";

(17) "Immediate precursor" means a substance which the state division of health has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which 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;

(18) "Laboratory" means a laboratory approved by the division of health as proper to be entrusted with the custody of controlled substances but does not include an apothecary who compounds controlled substances to be sold or dispensed on prescriptions;

(19) "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

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

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

(20) "Marihuana" means all parts of the plant *Cannabis Sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the

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

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

(1) Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (21) (1) of this section but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

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

(22) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the division of health;

(23) "Opiate" means any substance having an addition-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include unless specifically controlled under this act the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

(24) "Opium poppy" means the plant of the species *Papaver somniferum L.*, except its seeds;

(25) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

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

(27) "Practitioner" means a physician, osteopath, dentist, podiatrist, as defined in chapter 330, RSMo, veterinarian, scientific investigator, or other person 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 a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state;

(28) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

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

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

(31) "State" when applied to a part of the United States, includes any state,

district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

(32) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

(33) "Wholesaler" means a person who supplies controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.015. Authority to control.—1. The division of health shall administer this act and may add substances to the schedules after public notice and hearing. In making a determination regarding a substance, the division of health shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;
- (7) the potential of the substance to produce psychic or physiological dependence liability; and
- (8) whether the substance is an immediate precursor of a substance already controlled under this act.

2. After considering the factors enumerated in subsection 1 the division of health shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.

3. If the division of health designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

4. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the division of health, the division of health shall similarly control the substance under this act after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30 day period, the division of health objects to inclusion, rescheduling, or deletion. In that case, the division of health shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the division of health shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling or deletion under this act by the division of health, control under this act is stayed until the division of health publishes its decision.

5. The division of health shall exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription.

Section 195.016. Nomenclature.—The controlled substances listed or to be listed in the schedules in this act are included by whatever official, common, usual, chemical, or trade name designated.

Section 195.017. Substances, how placed in schedules—lists of scheduled substances.—1. The division of health shall place a substance in Schedule I if it finds that the substance:

- (1) has high potential for abuse; and

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

2. Schedule I: (1) The controlled substances listed in this subsection are included in Schedule I.

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

- (a) Acetylmethadol;
- (b) Allylprodine;
- (c) Alphacetylmethadol;
- (d) Alphameprodine;
- (e) Alphamethadol;
- (f) Benzethidine;
- (g) Betacetylmethadol;
- (h) Betameprodine;
- (i) Betamethadol;
- (j) Betaprodine;
- (k) Clonitazene;
- (l) Dextromoramide;
- (m) Dextrorphan;
- (n) Diampromide;
- (o) Diethylthiambutene;
- (p) Dimenoxadol;
- (q) Dimepheptanol;
- (r) Dimethylthiambutene;
- (s) Dioxaphetyl butyrate;
- (t) Dipipanone;
- (u) Ethylmethylthiambutene;
- (v) Etonitazene;
- (w) Etoxidine;
- (x) Furethidine;
- (y) Hydroxypethidine;
- (z) Ketobemidone;
- (aa) Levomoramide;
- (bb) Levophenacetylmorphan;
- (cc) Morpheridine;
- (dd) Noracymethadol;
- (ee) Norlevorphanol;
- (ff) Normethadone;
- (gg) Norpipanone;
- (hh) Phenadoxone;
- (ii) Phenampromide;
- (jj) Phenomorphan;
- (kk) Phenoperidine;
- (ll) Piritramide;
- (mm) Proheptazine;
- (nn) Properidine;
- (oo) Racemoramide;
- (pp) Trimeperidine.

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

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;
- (f) Cyrenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;
- (i) Etorphine;
- (j) Heroin;
- (k) Hydromorphinol;
- (l) Methyl-desorphine;
- (m) Methyl-dihydromorphine;
- (n) Morphine methylbromide;
- (o) Morphine methylsulfonate;
- (p) Morphine-N-Oxide;
- (q) Myorphine;
- (r) Nicocodeine;
- (s) Nicomorphine;
- (t) Normorphine;
- (u) Phoclodine;
- (v) Thebacon.

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

- (a) 3, 4-methylenedioxy amphetamine;
- (b) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (c) 3, 4, 5-trimethoxy amphetamine;
- (d) Bufotenine;
- (e) Diethyltryptamine;
- (f) Dimethyltryptamine;
- (g) 4-methyl-2, 5-dimethoxylamphetamine;
- (h) Ibogaine;
- (i) Lysergic acid diethylamide;
- (j) Marihuana;
- (k) Mescaline;
- (l) Peyote;
- (m) N-ethyl-3-piperidyl benzilate;
- (n) N-methyl-3-piperidyl benzilate;
- (o) Psilocybin;
- (p) Psilocyn;
- (q) Tetrahydrocannabinols.

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

- (1) the substance has high potential for abuse;
- (2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) the abuse of the substance may lead to severe psychic or physical dependence.

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

- (1) Any of the following substances, except those narcotic drugs listed in

other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1), but not including the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

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

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

(a) Alphaprodine;

(b) Anileridine;

(c) Bezitramide;

(d) Dihydrocodeine;

(e) Diphenoxylate;

(f) Fentanyl;

(g) Isomethadone;

(h) Levomethorphan;

(i) Levorphanol;

(j) Metazocine;

(k) Methadone;

(l) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(m) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

(n) Pethidine;

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

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

(q) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(r) Phenazocine;

(s) Piminodine;

(t) Racemethorphan;

(u) Racemorphan.

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

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

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

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

6. (1) The controlled substances listed in this subsection are included in Schedule III.

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

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) Phenmetrazine and its salts;
- (c) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;
- (d) Methylphenidate.

(3) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other Schedules;

- (b) Chlorhexadol;
 - (c) Glutethimide;
 - (d) Lysergic acid;
 - (e) Lysergic acid amide;
 - (f) Methyprylon;
 - (g) Phencyclidine;
 - (h) Sulfondiethylmethane;
 - (i) Sulfonethylmethane;
 - (j) Sulfonmethane.
- (4) Nalorphine.

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

(a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) The division of health may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (2) and (3) of subsection 6 of this section from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central

nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

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

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

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

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

8. (1) The controlled substances listed in this subsection are included in Schedule IV.

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

- (a) Barbitol;
- (b) Chloral betaine;
- (c) Chloral hydrate;
- (d) Ethchlorvynol;
- (e) Ethinamate;
- (f) Methohexital;
- (g) Meprobamate;
- (h) Methylphenobarbital;
- (i) Paraldehyde;
- (j) Petrichloral;
- (k) Phenobarbital.

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

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

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

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

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

10. (1) The controlled substances listed in this subsection are included in Schedule V.

(2) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone;

(a) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(b) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(c) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(d) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(e) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

11. The division of health shall revise and republish the schedules semi-annually for 2 years from the effective date of this act, and thereafter annually.

195.020. Prohibited acts.—It is unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute, or compound any controlled or counterfeit substance except as authorized in this law, or to possess any apparatus, device or instrument for the unauthorized use of any controlled substance.

195.025. Certain use of vessels, vehicles and aircraft prohibited.—1. No person shall:

(1) Transport, carry, and convey any controlled substance by means of any vessel, vehicle, or aircraft, except as authorized in this law;

(2) Conceal or possess any controlled substance in or upon any vessel, vehicle or aircraft; or

(3) Use any vessel, vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receive possession, purchase, sell, barter, exchange or giving away of any controlled substance.

2. When used in this section the term:

(1) "Aircraft" includes every description of craft or carriage or other contrivance used, or capable of being used as a means of transportation through air;

(2) "Vehicle" includes every description of carriage or other contrivance used or capable of being used as a means of transportation, on, below, or above the land, and shall include but not be limited to automobiles, trucks, station wagons, trailers and motorcycles, but does not include aircraft;

(3) "Vessel" includes every description of water craft or other contrivance used or capable of being used as a means of transportation in water, but does not include aircraft.

195.030. Rules—fees—registration required, exception.—1. The division of health upon public notice and hearing may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state.

2. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare, distribute, dispense or prescribe any controlled substance and no person as a wholesaler shall supply the same, without having first obtained annually a registration issued by the division of health in accordance with rules and regulations promulgated by it.

3. Persons registered by the division of health under this act to manufacture, distribute, or dispense or conduct research with controlled substances are authorized to possess, manufacture, distribute or dispense such substances; including any such activity in the conduct of research, to the extent authorized by their registration and in conformity with other provisions of this act.

4. The following persons shall not be required to register and may lawfully possess controlled substances under this act:

(1) An agent or employee of any registered manufacturer, distributor, or dis-

penser of any controlled substance if such agent is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.

5. The division of health may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

6. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

7. The division of health is authorized to inspect the establishment of a registrant or applicant in accordance with the provisions of this chapter.

195.040. Registration requirements—revocation and suspension.—1. No registration shall be issued under section 195.030 unless and until the applicant therefor has furnished proof satisfactory to the division of health:

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

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

2. No registration shall be granted to any person who has within five years been convicted of a willful violation of any law of the United States, or of any state, relating to controlled substances or to any person who is a narcotic addict.

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

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

(2) compliance with applicable state and local law;

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

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

(5) furnishing by the applicant of false or fraudulent material information in any application filed under this act;

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

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

(8) Registration does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.

4. Practitioners shall be registered to dispense any controlled substance or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The division of health need not require separate registration under this act for prac-

tioners engaging in research with nonnarcotic substances in schedules II through V where the registrant is already registered under this act in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the division of health of that federal registration.

5. Compliance by manufacturers and distributors with the provisions of federal law respecting registration (excluding fees) shall entitle them to be registered under this act.

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

(1) has furnished false or fraudulent material information in any application filed under this act;

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

(3) has had his federal registration to manufacture, distribute or dispense suspended or revoked.

7. The division of health may limit revocation or suspension of a registration to a particular controlled substance with respect to which grounds for revocation or suspension exist.

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

9. The division of health shall promptly notify the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency of all orders suspending or revoking registration and all forfeitures of controlled substances.

10. Before denying, suspending or revoking a registration or refusing a renewal of registration, the division of health shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the division of health at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration.

11. If the division of health shall refuse any person, persons, or corporation, registration under this law, or shall revoke or suspend registration already issued under this law, the person, persons, or corporation shall have the right to appeal to the circuit court of the county in this state in which said appellant resides, or if the appellant be a corporation, then to the circuit court of the county in this state in which said corporation has its principal office.

12. If an appeal be taken as provided in subsection 11, the division of health shall immediately certify all proceedings in reference to said cause to the clerk of the circuit court of the county in which said appellant resides or has its principal office, and the said circuit court shall then assume jurisdiction of said cause. The circuit court upon such an appeal shall have jurisdiction to render such judgment

as the law and the evidence shall warrant, including any order which the state division of health could or should have rendered thereon. Either party may appeal from the judgment of the circuit court in the same manner as in any other civil action. The judgment or order of the state division of health revoking or suspending registration already issued under this law shall be in force until reversed by the circuit court or appellate court on appeal. If and when an appeal is taken as provided for in this section, the circuit court shall immediately assume jurisdiction of the cause and set the case for trial.

13. The division of health may suspend without an order to show cause, any registration simultaneously with the institution of proceedings under subsection 6 of this section if the division of health finds that there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the division of health or dissolve by a court of competent jurisdiction.

195.050. Controlled substances, legal sales, how made—records required to be kept.—1. A duly registered manufacturer or wholesaler may sell controlled substances to any of the following persons:

- (1) to a manufacturer, wholesaler, or pharmacy;
- (2) to a physician, dentist, podiatrist or veterinarian;
- (3) to a person in charge of a hospital, but only for use in that hospital;
- (4) to a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes;

2. A duly registered manufacturer or wholesaler may sell controlled substances to any of the following persons:

(1) On a special written order accompanied by a certificate of exemption, as required by federal laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal or insular government, purchasing, receiving, possessing, or dispensing controlled substances by reason of his official duties;

(2) To a master of a ship or person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port; provided, such controlled substances shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting surgeon of the United States public health service;

(3) To a person in a foreign country if the provisions of federal laws are complied with.

3. An official written order for any controlled substance listed in schedules I and II shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the controlled substance named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with federal laws, respecting the requirements governing the use of order forms.

4. Possession of or control of controlled substances obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

5. A person in charge of a hospital or of a laboratory, or in the employ of

this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains controlled substances under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this law.

6. (1) Every person registered to manufacture, distribute or dispense controlled substances under this act shall keep records and inventories of all such drugs in conformance with the record keeping and inventory requirements of federal law, and in accordance with any additional regulations of the division of health.

7. Manufacturers and wholesalers shall keep records of all narcotic and controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them, in accordance with this subsection.

8. Apothecaries shall keep records of all controlled substances received and disposed of by them, in accordance with the provisions of this subsection.

9. The form of records shall be prescribed by the division of health.

195.060. Controlled substances to be dispensed on prescription only, exception—certain advertising prohibited.—1. Except as provided in subsection 3 of this section, a pharmacist or an apothecary, in good faith, may sell and dispense controlled substances to any person only upon a written or oral prescription of a physician, dentist, podiatrist, or veterinarian, provided that the controlled substances listed in Schedule V may be sold without prescription but only in accordance with federal regulations. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the registry number under the federal controlled substances laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in schedule III, IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed by the practitioner. A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose.

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

3. An apothecary or pharmacist, in good faith, may sell and dispense, any schedule II drug or drugs to any person, in emergency situations as defined by rule of the division of health upon an oral prescription by a practicing physician, podiatrist, veterinarian or dentist, provided such person shall furnish the pharmacist with a written prescription within 72 hours, containing the date, name and address prescribing same and their registry number under the federal narcotic laws and bearing the full name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed; provided the drug or drugs pre-

scribed by such oral prescription have been listed by the director of the division of health as provided for in section 195.195. If the oral prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the oral prescription shall write the date of filling, and his own signature on the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled, for a period of two years so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law.

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

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

195.070. Who may prescribe.—1. A physician, podiatrist or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense controlled substances or he may cause the same to be administered by a nurse or intern under his direction and supervision.

2. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and he may cause them to be administered by an assistant or orderly under his direction and supervision.

3. Any person who has obtained from a physician, podiatrist, dentist, or veterinarian any controlled substance for administration to a patient during the absence of such physician, podiatrist, or veterinarian, shall return to such physician, dentist, podiatrist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

195.080. Excepted substances.—1. Except as otherwise in this law specifically provided, this law shall not apply to the following cases:

(1) Prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations or drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that this law shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. Nothing in this section shall be construed to limit the kind and quantity of any controlled substance that may be prescribed, administered, dispensed, or sold to any person or animal, when it is prescribed, administered, dispensed, or sold in compliance with the general provisions of this law.

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

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

3. The label of a controlled substance in schedules II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal

offense to transfer such narcotic or dangerous drug to any person other than the patient.

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

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

195.110. User of controlled substance to keep it in container in which obtained.—A person to whom or for whose use any controlled substance in schedule II has been prescribed, sold, or dispensed by a physician, dentist, podiatrist, or apothecary, or other person authorized under the provisions of 195.050 and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

195.130. Common nuisance, what constitutes.—Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever which is resorted to by narcotic drug addicts or drug dependent persons for the purpose of using controlled substances or which is used for the illegal keeping or selling of the same, shall be deemed a "common nuisance". No person shall keep or maintain such a common nuisance.

195.135. Search warrants, how obtained—seizure in connection with arrest.—
1. A search warrant may issue, and execution and seizure may be had, as provided in the Rules of Criminal Procedure for the courts of Missouri, for any controlled substance unlawfully in the possession or under the control of any person, or for any apparatus, device or instrument for the unauthorized administration or use of controlled substances in the possession or under the control of any person.

2. Any peace officer of the state, upon making an arrest for a violation of this chapter, shall seize without warrant any controlled substance or any apparatus, device or instrument kept for the unauthorized administration or use of controlled substance in the possession or under the control of the person or persons arrested, providing said seizure shall be made incident to the arrest.

195.140. Forfeiture of controlled substances and certain devices or material, when—disposal of.—All controlled substances or any apparatus, device, instrument or raw material for the administration, use or manufacture of controlled substances and which have come into the custody of a peace officer or officer or agent of the division of health as provided by this law, the lawful possession of which is not established or the title to which cannot be ascertained after a hearing as prescribed in Rule 33 of Rules of Criminal Procedure for the courts of

Missouri or some other appropriate hearing, shall be forfeited, and disposed of as follows:

(1) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such controlled substances apparatus, device or instruments forfeited and destroyed. A record of the place where said drugs, apparatus, devices or instruments were seized, of the kinds and quantities of drugs, apparatus, devices or instruments so destroyed, and of the time, place and manner of destructions, shall be kept, and a return under oath, reporting the destruction of the controlled substances shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them.

(2) Upon written application by the division of health, the court or magistrate by whom the forfeiture of such controlled substances or apparatus, devices or instruments has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said division of health, for distribution or destruction, as herein provided.

(3) Upon application by any hospital within this state, not operated for private gain, the division of health may in its discretion deliver any controlled substances or apparatus, device or instrument for the use of controlled substances that have come into its custody by authority of this section to the applicant for medicinal use. The division of health, may from time to time, deliver excess stocks of such controlled substances to the United States commissioner of narcotics, or may destroy them or any excess stock of any apparatus, device or instrument for the administration or use of controlled substances.

(4) The division of health shall keep a complete record of all drugs, apparatus, devices or instruments received and disposed of, together with the dates of such receipt and disposal, showing the exact kinds, quantities, and forms of such drugs, apparatus, devices and instruments; the persons from whom received and to whom delivered; and by whose authority they were received, delivered or destroyed; which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic or controlled substances laws.

195.160. Warrants for administrative inspection, contents, procedures.—1. A judge or magistrate, upon proper oath or affirmation showing probable cause, may issue warrants for controlled premises for the purpose of conducting administrative inspections authorized by this act, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

2. A warrant shall issue only upon an affidavit of a peace officer or an employee of the division of health having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist, he shall issue a warrant identifying the area, premises, building or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be inspected, if any. The warrant shall:

(1) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(2) Be directed to a peace officer or to an employee of the division of health to execute it;

(3) Command the person to whom it is directed to inspect the area, premises,

building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(4) Identify the item or types of property to be seized, if any;

(5) Direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned;

3. A warrant issued pursuant to this Section shall be executed and returned within 10 days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

4. The judge or magistrate who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court which issued the warrant. The division of health may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this act are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to this section (a) an officer or employee designated by the division of health, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the division of health may:

(a) inspect and copy records required by this act to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (5), all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this act; and

(c) inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This section does not prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) if the owner, operator, or agent in charge of the controlled premises consents;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(e) in all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

5. Prescriptions, orders, and records, required by this law, and stocks of controlled substances shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

195.170. Fraudulent attempts to obtain controlled substances prohibited—communication to physician not privileged, when.—1. No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the administration of the controlled substance by fraud, deceit, misrepresentation, or subterfuge; or by the forgery or alteration of a prescription or of any written order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address.

2. Information communicated to a physician in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication; provided, however, that no physician or surgeon shall be competent to testify concerning any information which he may have acquired from any patient while attending him in a professional character and which information was necessary to enable him to prescribe for such patient as a physician, or to any act for him as a surgeon.

3. No person shall willfully make a false statement in any prescription, order, record, or record, required by this law.

4. No person shall, for the purpose of obtaining a controlled substance falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, podiatrist, veterinarian, or other authorized person.

5. No person shall make or utter any false or forged prescription or false or forged written order.

6. No person shall affix any false or forged label to a package or receptacle containing controlled substances.

7. The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 195.080, in the same way as they apply to transactions under all other sections.

195.190. Enforcement by whom.—It is hereby made the duty of the division of health, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic and controlled substances.

195.195. Regulations, authority to promulgate, where vested.—The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director of the division of health. The director of the division of health is hereby authorized to make regulations promulgated under this chapter

conform with those promulgated under the federal comprehensive drug abuse prevention and control act of 1970.

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

- (1) Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;
- (2) Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels;
- (3) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

195.198. Educational programs authorized.—1. The director of the department of health and welfare is authorized and directed to carry out educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances. In connection with such programs he is authorized to:

- (1) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;
- (2) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;
- (3) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances;

2. The director of the division of health is authorized and directed to encourage research on misuse and abuse of controlled substances. In connection with such research and in furtherance of the enforcement of this act, he is authorized to:

- (1) Establish methods to assess accurately the effects of controlled substances and to identify and characterize controlled substances with potential for abuse;
- (2) Make studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act.

3. The director of the department of public health and welfare may enter into contracts for educational and research activities.

195.200. Penalties.—1. Any person violating any provision of this chapter relating to schedules I or II is punishable as follows:

(1) For the first offense, other than selling, giving or delivering any controlled substance listed in schedule I or II, by imprisonment in a state correctional institution for a term of not more than twenty years, or by imprisonment in a county jail for a term of not less than six months nor more than one year, provided that:

(a) For the first offense of possession of thirty-five grams or less of marihuana or five grams or less of hashish, such person shall be confined in the county jail for a term of not more than one year or be fined not more than one thousand dollars or be punished by both such confinement and fine.

(b) For the second and subsequent offenses for the possession of marihuana or for the first offense of possession of more than thirty-five grams of marihuana or more than five grams of hashish, any person, upon conviction shall be imprisoned in a state correctional institution for a term of not more than five years, or be confined in the county jail for not more than one year, or be fined not more than one thousand dollars or be both confined and fined.

(c) Any person, who delivers less than twenty-five grams of marihuana or

less than five grams of hashish for no remuneration to any other person shall, on conviction, be punished by confinement in the county jail for not more than one year or be fined not more than one thousand dollars, or by both such confinement and fine, provided that this penalty shall be applicable only upon the first offense and this paragraph shall not apply if such person has been previously convicted of any felony related to controlled substances.

(2) For the second offense under this chapter, relating to schedules I or II except as provided in paragraph (b) of subdivision (1) of subsection 1 of this section, and other than selling, giving or delivering of any drug, listed in schedule I or II, or in the case of a first conviction under this chapter for an offense other than selling, giving or delivering of any drug, listed in schedule I or II, if the person has previously been convicted of any felony violation of the laws of this state, or of the United States, or of any other state, territory or district relating to controlled substances by imprisonment in a state correctional institution for a term of not less than five years nor more than life imprisonment.

(3) Except as provided in paragraph (b) of subdivision (1) of subsection 1 of this section, for the third or subsequent offense under this chapter, relating to schedule I or II other than selling, giving or delivering of any drug listed in schedule I or II, or if the person has previously been convicted two or more times in aggregate of any felony violation of the laws of this state, or of the United States, or of any other state, territory or district relating to controlled substances by imprisonment in a state correctional institution for a term of not less than ten years nor more than life imprisonment.

(4) Except as provided in paragraph (c) of subdivision (1) of subsection 1 of this section, for the offense of selling, giving or delivering any controlled substance listed in schedule I or II, to a person, by imprisonment in a state correctional institution for a term of not less than five years nor more than life imprisonment; except, that if the person to whom a drug listed in schedule I or II, was sold, given or delivered was under the age of twenty-one years, then the offender may be punished by death.

(5) For the offense of selling, giving or delivering any controlled substance listed in schedule I or II to a person if the offender has previously been convicted of any felony violation of the laws of this state, or of the United States, or any other state, territory or district relating to controlled substances by imprisonment in a state correctional institution for a term of not less than ten years nor more than life imprisonment; except that if the person to whom the drugs listed in schedule I or II was sold, given or delivered, other than as provided in paragraph (c) of subdivision (1) of subsection 1 of this section was under the age of twenty-one years, then the offender may be punished by death.

2. If any person is to be punished under the provisions of subdivision (2), (3), or (5) of subsection 1 the duty develops upon the court to affix the term of imprisonment; in all other cases, including any in which the death penalty may be imposed, punishment shall be affixed as otherwise provided by the law.

3. Prior convictions under this chapter shall be pleaded, heard and determined in the same manner as in all other cases.

4. No parole, probation, suspended sentences or any other form of judicial clemency may be exercised in behalf of any person punished under subdivision, (3) or (5) of subsection 1.

195.210. Federal acquittal, bar to prosecution, when.—No person shall be prosecuted for a violation of any provision of this chapter if such person has been acquitted or convicted under the federal narcotic, or controlled substances laws

of the same act or omission which, it is alleged, constitutes a violation of this chapter.

195.220. Parole, period of.—Notwithstanding Section 549.275 RSMo, if the board of probation and parole releases any person from a state penal institution who was convicted of selling, giving, or delivering a controlled substance as defined in this chapter, the period of parole shall be for not less than the completion of the original sentence plus five years. If, however, he is found to have violated the conditions of his parole, he shall be recommitted to confinement by the department of corrections for the remainder of the term set by the original sentence from which he was paroled.

195.230. List of controlled substances, division of health to prepare, where filed.—The division of health of the department of health and welfare shall prepare a list of all drugs falling within the purview of controlled substances. Upon preparation, a copy of the list shall be filed in the office of the secretary of state.

195.240. Possession, sale, distribution or transfer of certain substances prohibited, exceptions.—The possession, sale, distribution, or transfer of any controlled substance listed in schedules III, IV, or V, or any apparatus, device or instrument for the unauthorized use of such substances is unlawful, except in the usual course of business or practice, or in the performance of their official duties by the following persons:

(1) Persons licensed under the provisions of chapters 330, 332, 334, 335, 338, and 340, RSMo;

(2) Persons who procure controlled substances (a) for handling by or under the supervision of persons employed by them who are licensed under the provisions of chapters 330, 332, 334, 335, 338, and 340, RSMo, or (b) for the purpose or lawful research, teaching, or testing and not for resale;

(3) Hospitals and other institutions which procure controlled substances for lawful administration by persons described in subdivision (1);

(4) Officers or employees of appropriate enforcement agencies of federal, state, or local governments, pursuant to their duties in enforcing the provisions of this chapter;

(5) Manufacturers and wholesalers of controlled substances;

(6) Carriers and warehousemen handling or distributing controlled substances or drugs;

(7) Persons using controlled substances for medical purposes upon the written prescription or personal dispensation by a person licensed under the provision of chapters 330, 332, 334, 338, and 340, RSMo.

195.250. Obtaining controlled substances by fraud or deception prohibited.—It is unlawful for any person to obtain or attempt to obtain any controlled substance listed in schedules III, IV or V or procure or attempt to procure the administration of the drug by the following means:

(1) Fraud, deceit, misrepresentation, or subterfuge; or

(2) The forgery or alteration of the prescription or of any written order; or

(3) The concealment of a material fact; or

(4) The use of a false name or the giving of a false address.

195.260. Communication not privileged, when.—Information communicated to a person as described in subdivision (1) of section 195.240 in an effort unlawfully to procure any controlled substance listed in schedules III, IV or V or

unlawfully to procure the administration of the drug, shall not be deemed a privileged communication.

195.270. Penalty for certain acts.—1. Any person who violates any provision of section 195.240 or 195.250 is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term of not less than two years nor more than ten years, or by confinement in the county jail for a term of not more than one year, or by a fine of not more than one thousand dollars, or by both the fine and confinement.

195.280. Arrest without warrant, when.—Any peace officer of the state of Missouri, or of any political subdivision thereof may, within the boundaries of the political entity from which he derives his authority, arrest without a warrant any person he sees violating or whom he has probable cause to believe has violated any provision of this chapter.

195.290. Records, how expunged, exception.—After a period of not less than six months from the time that an offender was placed on probation by a court, such person, who at the time of the offense was twenty-one years of age or younger, may apply to the court which sentenced him for an order to expunge from all official records, except from those records maintained under the comprehensive drug abuse prevention and control act, as enacted in 1970, and all recordations of his arrest, trial and conviction. If the court determines, after a hearing and after reference to the controlled dangerous substances registry, that such person during the period of such probation and during the period of time prior to his application to the court under this section has not been guilty of any offenses, or repeated violation of the conditions of such probation, he shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied prior to such arrest and conviction. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest or trial or conviction in response to any inquiry made of him for any purpose.

195.300. Schools to provide drug education programs.—The state board of education shall promulgate rules which shall require that all school districts in the state provide in all elementary and secondary classes, a continuing curriculum or appropriate educational programs on the use and abuse of dangerous drugs and substances including narcotics, depressants, stimulants and hallucinogenics, in order to inform students on the dangers of the use, misuse and abuse of drugs.

195.310. Injunction authorized.—The circuit court may exercise jurisdiction to restrain or enjoin violations of this act.

195.320. Purpose clause.—This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

Approved June 29, 1971.

[H. C. S. H. B. 71]

PUBLIC HEALTH AND WELFARE: Drug addiction or dependency.

AN ACT providing for the voluntary and involuntary commitment and treatment of narcotic addict or drug dependent persons not charged with a criminal offense.