

SECTION 2. Further.—Residents of any state contiguous to this State may purchase rifles and shotguns in this State; *provided*, such residents conform to applicable provisions of statutes and regulations of this State, the United States, and of the contiguous state in which such persons reside.

SECTION 3. Time effective.—This act shall take effect upon approval by the Governor.

Approved the 17th day of June, 1971.

(R607, S488)

No. 445

An Act To Provide For The Regulation Of Controlled Substances And Dangerous Drugs And To Provide Penalties And To Repeal Section 32-1453.1 And Article 2, Chapter 10, Title 32, Code Of Laws Of South Carolina, 1962, And Act 915 Of 1966, Relating To The Procurement Of Drugs By Fraud, Uniform Narcotic Drug Act, And The Regulation Of Depressant Or Stimulant Drugs Or Counterfeit Agents.

Be it enacted by the General Assembly of the State of South Carolina :

SECTION 1. Commissioner of Narcotics and Controlled Substances.—There is hereby established in the State Planning and Grants Division a narcotics and controlled substances section which shall have the full responsibility of formulating, coordinating and administering a State plan for controlling narcotics and controlled substances. The section shall be administered by a commissioner who shall be appointed by the Director of the Planning and Grants Division with the consent of the Governor. The Commissioner shall serve at the pleasure of the Director of the Planning and Grants Division. The Director shall fix the compensation of the Commissioner. The Commissioner may appoint necessary assistants and other personnel to carry out the work of the section.

SECTION 2. Duty of State Departments, Officers, Agencies, and Employees.—It shall be the duty of all departments, officers, agencies, and employees of the State to cooperate with the Commissioner in carrying out the functions of his office. The Attorney General shall furnish such legal services as are necessary to the office of the Commissioner.

SECTION 3. Powers and Duties of Commissioner.—(a) The Commissioner shall, in addition to other powers and duties vested in him:

(1) Cooperate with Federal and other State agencies in discharging his responsibilities concerning traffic in narcotics and controlled substances and in suppressing the abuse of dangerous substances;

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

(3) Coordinate and cooperate in training programs on controlled substances law enforcement at the local and State levels;

(4) Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit within the South Carolina Law Enforcement Division which shall accept, catalogue, file and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the State, and make such information available for Federal, State, and local law enforcement purposes; and collect and furnish statistics for other appropriate purposes;

(5) Coordinate and cooperate in programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

(b) Results, information, and evidence received from the Board relating to the regulatory functions of this act, including results of inspections conducted by such Board, may be relied upon and acted upon by the Commissioner in conformance with his administration and coordinating duties under this act.

(c) The Commissioner shall:

(1) Plan, coordinate and cooperate in educational programs for schools, communities and general public designed to prevent and deter misuse and abuse of controlled substances;

(2) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(3) Assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(4) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(5) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(6) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them;

(7) Assist in the education and training of State and local law enforcement officials in their efforts to control misuse and abuse of controlled substances;

(8) Encourage research on misuse and abuse of controlled substances;

(9) Cooperate in establishing methods to assess accurately the effects of controlled substances and to identify and characterize controlled substances with potential for abuse;

(10) Cooperate in making studies and in undertaking programs of research to

(a) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;

(b) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(c) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances.

(d) The Commissioner may enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(e) The Commissioner may enter into contracts for educational and research activities without performance bonds.

(f) The Commissioner is authorized to accept gifts, bequests, devises, contributions, and grants, public or private, including Federal funds, or funds from any other source for use in furthering the purpose of the office of the Commissioner.

SECTION 4. Coordination of Law Enforcement.—The Commissioner shall, in cooperation with the Narcotics Division of the State Law Enforcement Division, formulate a plan to coordinate the controlled substance enforcement effort from the local to the State level.

SECTION 5. Immunity for Certain Drug Addicts.—Any person addicted to or dependent upon narcotics or dangerous drugs may seek advice concerning such problem, and information as to where he may obtain treatment and rehabilitation from a medical practitioner or hospital, a college or university counselling bureau or guidance

counsellors in elementary, junior and high schools without fear of arrest or of being reported to law enforcement authorities for prosecution as a drug law violator.

SECTION 6. Federal Commission Report on Marihuana.—Within one year after the date the Federal Commission on Marihuana and Drug abuse submits its report to the President and the United States Congress, the permanent committee on narcotics and controlled substances shall conduct a comprehensive study and review of the penalties established in this act concerning offenses relating to the use and possession of marihuana.

SECTION 7. Definitions—As used in this act :

“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.

“Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser ; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual or lawful course of the carrier’s or warehouseman’s business.

“Board” means the State Board of Health and the Executive Committee.

“Bureau” means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

“Commissioner” means the Commissioner of the Narcotics and Controlled Substances Section of the State Planning and Grants Division.

“Controlled substance” means a drug, substance or immediate precursor in Schedules I through V in Sections 11, 13, 15, 17 and 19 of this act.

“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 such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

“Deliver” or “delivery” means the actual, constructive, or attempted transfer of a controlled drug whether or not there exists an agency relationship.

“Depressant or stimulant drug” means (a) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid which has been designated as habit forming by the appropriate Federal Agency or by the Board; (b) a drug which contains any quantity of amphetamine or any of its optical isomers, any salt of amphetamine or any salt of any optical isomer of amphetamine, or any other substance which the appropriate Federal Agency, or the Board, after investigation, has found to be capable of being, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or (c) Lysergic acid diethylamide or mescaline, or any other substance which the appropriate Federal Agency or the Board, after investigation, has found to have, and by regulation designates as having a potential for abuse because of its stimulant or depressant effect on the central nervous system, or its hallucinogenic effect.

“Director” shall mean the Director of the Department of Narcotics and Dangerous Drugs under the South Carolina Law Enforcement Division.

“Dispense” means to deliver a controlled substance 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 delivers a controlled substance to the ultimate user or research subject.

“Distribute” means to deliver (other than by administering or dispensing) a controlled substance.

“Distributor” means a person who so delivers a controlled substance.

“Drug” means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man and animals; and (c) substances (other than food) intended to affect the

structure or any function of the body of man and animals; and (d) substances intended for use as a component of any substance specified in Clause (a), (b), or (c) of this paragraph; but does not include devices or their components, parts, or accessories.

“Immediate Precursor” means a substance which the appropriate Federal Agency or the Board has found to be and by regulation has designated 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 such manufacture.

“Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either 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, 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 controlled substance:

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

“Manufacturer” means any person who packages, repackages, or labels any container of any controlled substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.

“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.

“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 synthesis.

(a) opium, coca leaves, and opiates;

(b) a compound, manufacture, salt, derivative or preparation of opium, coca leaves, or opiates;

(c) a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (a) or (b). Such term does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

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

“Opium poppy” means the plant of the species *Papaver somniferum* L., except the seed thereof.

“Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

“Practitioner” means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

“Production” includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

“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 administration to an animal owned by him or a member of his household.

SECTION 8. Authority to Schedule Controlled Substances.—(1) Annually, within thirty days after the convening of each regular session of the General Assembly, the Board shall recommend to the General Assembly any additions, deletions or revisions in the schedules of substances, enumerated in Sections 11, 13, 15, 17, and 19 of this act, which it deems necessary. The Board shall not make any additions, deletions or revisions in such schedules until after notice and an opportunity for a hearing is afforded all interested parties. In making a recommendation to the General Assembly regarding a substance, the Board shall consider the following:

- (a) The actual or relative potential for abuse;
- (b) The scientific evidence of its pharmacological effect, if known;
- (c) State of current scientific knowledge regarding the substance;
- (d) The history and current pattern of abuse;
- (e) The scope, duration, and significance of abuse;
- (f) The risk to the public health;
- (g) The potential of the substance to produce psychic or physiological dependence liability; and
- (h) Whether the substance is an immediate precursor of a substance already controlled under this division.

(2) After considering the above factors, the Board shall make a recommendation to the General Assembly, specifying to what schedule the substance should be added, deleted or rescheduled, if it finds that the substance has a potential for abuse.

(3) During the time the General Assembly is not in session, the Board may by rule add, delete or reschedule a substance as a controlled substance after providing for notice and hearing to all interested parties. Upon the adoption of such rule, the Board shall forward copies to the chairmen of the Medical Affairs Committee of the Senate, and the Military, Public and Municipal Affairs Committee of the House of Representatives and to the Clerks of the Senate and House and to the Chairman of the Joint Legislative Committee on Drugs and Narcotics.

(4) If any substance is added, deleted or rescheduled as a controlled substance under Federal law and notice of the designation is given to the Board, the Board shall recommend that a corresponding change in South Carolina law be made by the next regular session of the General Assembly convening not less than thirty days after pub-

lication in the Federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless the Board objects to the change. In that case, the Board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Board shall announce its decision and shall notify the General Assembly in writing of the change in Federal law or regulations and of the Board's recommendation that a corresponding change in South Carolina law be made, or not be made, as the case may be.

(5) The board shall exclude any non-narcotic 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 9. Nomenclature.— The controlled substances listed, or to be listed, in the schedules in Sections 11, 13, 15, 17 and 19 of this act are included by whatever official, chemical or trade name designated as well as the common or usual name designated.

SECTION 10. Schedule I; Tests.—The Board shall place a substance in Schedule I if it finds that the substance has:

- (a) a high potential for abuse;
- (b) no accepted medical use in treatment in the United States; and
- (c) a lack of accepted safety for use in treatment under medical supervision.

SECTION 11. Schedule I.—(a) The controlled substances listed in this section are included in Schedule I.

(b) 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 such isomers, esters, ethers and salts is possible within the specific chemical designation:

1. Acetylmethadol
2. Allylprodine
3. Alphacetylmethadol
4. Alphameprodine
5. Alphamethadol
6. Benzethidine
7. Betacetylmethadol
8. Betameprodine

9. Betamethadol
10. Betaprodine
11. Clonitazene
12. Dextromoramide
13. Dextrorphan
14. Diampromide
15. Diethylthiambutene
16. Dimenoxadol
17. Dimepheptanol
18. Dimethylthiambutene
19. Dioxaphetyl Butyrate
20. Dipipanone
21. Ethylmethylthiambutene
22. Etonitazene
23. Etozeridine
24. Furethidine
25. Hydroxypethidine
26. Ketobemidone
27. Levomoramide
28. Levophenacymorphan
29. Morpheridine
30. Noracymethadol
31. Norlevorphanol
32. Normethadone
33. Norpipanone
34. Phenadoxone
35. Phenampromide
36. Phenomorphan
37. Phenoperidine
38. Piritramide
39. Proheptazine
40. Properidine
41. Racemoramide
42. Trimeperidine

(c) Any of the following opium derivatives, their salts, isomers, 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:

1. Acetorphine
2. Acetyldihydrocodeine

3. Benzylmorphine
4. Codeine Methylbromide
5. Codeine - N - Oxide
6. Cyprenorphine
7. Desomorphine
8. Dihydromorphine
9. Etorphine
10. Heroin
11. Hydromorphinol
12. Methyl-desorphine
13. Methylhydromorphine
14. Morphine Methylbromide
15. Morphine Methylsulfonate
16. Morphine-N-Oxide
17. Myrophine
18. Nicocodeine
19. Nicomorphine
20. Normorphine
21. Pholcodine
22. Thebacon

(d) 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 such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 3,4-Methylenedioxy amphetamine
2. 5-methoxy—3,4-Methylenedioxy amphetamine
3. 3,4,5-Trimethoxy amphetamine
4. Bufotenine
5. Diethyltryptamine (DET)
6. Dimethyltryptamine (DMT)
7. 4-methyl-2,5-dimethoxyamphetamine (STP)
8. Ibogaine
9. Lysergic Acid Diethylamide (LSD)
10. Marihuana
11. Mescaline
12. Peyote
13. N-ethyl-3-piperidyl benzilate
14. N-methyl-3-piperidyl benzilate
15. Psilocybin

16. Psilocyn

17. Tetrahydrocannabinol (THC)

SECTION 12. Schedule II; Tests.—The Board shall place a substance in Schedule II if it finds that:

- (a) it has a high potential for abuse;
- (b) it has a currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (c) abuse may lead to severe psychic or physical dependence.

SECTION 13. Schedule II.—(a) The controlled substances listed in this section are included in Schedule II.

(b) 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:

(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 paragraph (1), 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, 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.

(c) 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 such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Alphaprodine
2. Anileridine
3. Bezitramide
4. Dihydrocodeine
5. Diphenoxylate
6. Fentanyl
7. Isomethadone

8. Levomethorphan
9. Levorphanol
10. Metazocine
11. Methadone
12. Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
13. Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid
14. Pethidine
15. Pethidine - Intermediate-A, 4-cyano-1-methyl-4-phenyl-piperidine
16. Pethidine - Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
17. Pethidine - Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
18. Phenazocine
19. Piminodine
20. Racemethorphan
21. Racemorphan

(d) Unless specifically excepted, or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

SECTION 14. Schedule III; Tests.—The Board shall place a substance in Schedule III if it finds that:

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

(b) it has a currently accepted medical use in treatment in the United States; and

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

SECTION 15. Schedule III.—(a) The controlled substances listed in this section are included in Schedule III.

(b) 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:

1. Amphetamine, its salts, optical isomers, and salts of its optical isomers.

2. Phenmetrazine and its salts.

3. Any substance (except an injectable liquid) which contains any quantity of Methamphetamine, including its salts, isomers, or salts of isomers.

4. Methylphenidate

(c) 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:

1. 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.

2. Chlorhexadol

3. Glutethimide

4. Lysergic Acid

5. Lysergic Acid Amide

6. Methyprylon

7. Phencyclidine

8. Sulfondiethylmethane

9. Sulfonethylmethane

10. Sulfonmethane

(d) Nalorphene

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

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

3. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

7. 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, non-narcotic ingredients in recognized therapeutic amounts.

8. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

SECTION 16. Schedule IV; Tests.—The Board shall place a substance in Schedule IV if it finds that:

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

(b) it has a currently accepted medical use in treatment in the United States; and

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

SECTION 17. Schedule IV.—(a) The controlled substances in this section are included in Schedule IV.

(b) 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:

1. Barbital
2. Chloral Betaine
3. Chloral Hydrate
4. Ethchlorvynol
5. Ethinamate
6. Meprobamate
7. Methohexital
8. Methylphenobarbital
9. Paraldehyde
10. Petrichloral
11. Phenobarbital

SECTION 18. Schedule V; Tests.—The Board shall place a substance in Schedule V if it finds that:

(a) it has a low potential for abuse relative to the substances listed in Schedule IV;

(b) it has a currently accepted medical use in treatment in the United States; and

(c) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule IV.

SECTION 19. Schedule V.—(a) The controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more non-narcotic 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:

1. Not more than 200 milligrams of codeine per 100 milliliter or per 100 grams;

2. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

3. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

4. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

5. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

SECTION 20. Rules and Regulations; Requirement of Professional License.—

(a) The Board is authorized to promulgate rules and regulations and to charge reasonable fees relating to the license and control of the manufacture, distribution, and dispensing of controlled substances.

(b) No person engaged in a profession or occupation for which a license to engage in such activity is required by law shall be registered under this act unless such person holds a valid license of his profession or occupation.

(c) The licensing boards of all professions and occupations to which the use of controlled substances is incidental shall furnish a current list not later than thirty days after the effective date of this act to the Board, and thereafter not later than the first day of October of each year of the persons holding valid licenses. All such persons shall be subject to the registration requirements of this act.

SECTION 21. Registration Requirements.—(a) Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain a registration issued by the Board in accordance with its rules and regulations.

(b) Persons registered by the Board under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this act.

(c) The following persons need not register and may lawfully possess controlled substances under this act:

1. an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he 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.

(d) The Board 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.

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

(f) The Board is authorized to inspect the establishment of a registrant or an applicant for a registration in accordance with the rules and regulations promulgated by it.

(g) The Board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(h) The Board may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from State prosecution for pos-

session and distribution of controlled substances to the extent of the authorization.

SECTION 22. Registration.—(a) The Board shall register an applicant to manufacture, distribute or dispense controlled substances included in Sections 11, 13, 15, 17 and 19 of this act if it determines that the issuance of such registration is consistent 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 Federal law;

(3) Promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) Prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) Past experience in the manufacture of controlled substances, and the existence in the establishment of effective controls against diversion;

(6) Such other factors as may be relevant to and consistent with the public health and safety; and

(7) Licensure by a Federal agency.

(b) A registration granted under subsection (a) of this section shall not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners shall be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this State. The Board need not require separate registration under this act for practitioners engaging in research with non-narcotic controlled 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 in Schedule I substances within this State upon furnishing the Board evidence of the Federal registration.

(d) The Board shall permit persons to apply for registration within sixty days after the effective date of this act who own or operate

any establishment engaged in the manufacture, distribution, or dispensing of any controlled substances prior to the effective date of this act and who are registered by the State.

(e) Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitles them to be registered under this act.

SECTION 23. Denial, Revocation or Suspension of Registration.—

(a) An application for a registration or a registration granted pursuant to Section 22 of this act to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the Board upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to this act;

(2) Has been convicted of a felony or misdemeanor under any State or Federal law relating to any controlled substance; or

(3) Has had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(b) The Board may place any registrant who violates this section on probation or levy a civil fine of not more than one thousand dollars, or both.

SECTION 24. (a) Order to Show Cause.—Before denying, suspending or revoking a registration, or refusing a renewal of registration, the Board 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 Board 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. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The Board, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 23, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which

warrants this action. The suspension shall continue in effect until withdrawn by the Board or dissolved by a court of competent jurisdiction.

(c) In the event the Board 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. No disposition may be made of substances under seal until the suspension or revocation is withdrawn by the Board or dissolved by a court of competent jurisdiction, unless a court, upon application, 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 such controlled substances shall be forfeited to the State.

SECTION 25. Convictions; Copy Sent Licensing Board.—Upon the conviction of any person of the violation of any provision of this act, a certified copy of the judgment of conviction shall be sent by the clerk of the court to the Licensing Board by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business.

SECTION 26. Records of Registrants.—Persons registered to manufacture, distribute, or dispense controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of Federal law and with any additional rules the Board issues.

SECTION 27. Order Forms.—(a) Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form prescribed by the Board. Compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this section.

(b) Nothing contained in Subsection (a) shall apply:

(1) To the administering or dispensing of such substances to a patient by a practitioner in the course of his professional practice, however, such practitioner shall comply with the requirements of Section 26;

(2) To the distribution or dispensing of such substances by a pharmacist to an ultimate user pursuant to a written prescription issued by a practitioner authorized to issue such prescription, however, such pharmacist shall comply with the requirements of Section 26.

SECTION 28. Prescriptions.—(a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the Board by regulation, no controlled substance included in Schedule II may be dispensed without the written prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 26. No prescription for a controlled substance in Schedule II may be refilled.

(b) Except in emergency situations as prescribed by the Board by regulation, and except when distributed to a registrant or dispensed by a practitioner, other than a pharmacist, no controlled substance included in Schedule III or IV shall be dispensed without a written or oral prescription, reduced promptly to writing and filed by the pharmacist. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

(c) No controlled substances included in Schedule V may be distributed or dispensed other than for a medical purpose.

(d) Unless specifically indicated in writing on the face of the prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of "PRN" or "ad lib" or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur.

(e) The Board shall, by rules and regulations, specify the manner by which prescriptions shall be filed.

SECTION 29. Prohibited Acts A; Penalties.—(a) Except as authorized by this act, it shall be unlawful for any person:

(1) To manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance;

(2) To create, distribute, dispense, or possess with intent to distribute or dispense, a counterfeit substance.

Any person who violates this subsection with respect to:

(1) A substance classified in Schedules I or II which is a narcotic drug under Section 11 (b) and (c) or lysergic acid diethylamide (LSD) shall be deemed guilty of a felony and, upon conviction, shall for a first offense be sentenced to a term of imprisonment for not more than fifteen years or a fine of not more than twenty-five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender shall previously have been convicted of any violation of the

laws of the United States or of any state, territory, or district relating to narcotic drugs, marihuana, depressant, stimulant or hallucinogenic drugs, the offender shall be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory or district relating to narcotic drugs, marihuana, depressant, stimulant or hallucinogenic drugs, the offender shall be imprisoned for not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both. Except in the case of conviction for a first offense the sentence shall not be suspended and probation shall not be granted.

(2) Any other controlled substance classified in Schedule I, II, or III shall be deemed guilty of a misdemeanor and, upon conviction, shall for a first offense be sentenced to a term of imprisonment for not more than five years or a fine of not more than five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender shall previously have been convicted of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marihuana, depressant, stimulant or hallucinogenic drugs, the offender shall be deemed guilty of a felony and, upon conviction, shall be sentenced to a term of imprisonment for not more than ten years, or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory or district relating to narcotic drugs, marihuana, depressant, stimulant or hallucinogenic drugs, the offender shall be deemed guilty of a felony and, upon conviction, shall be sentenced to a term of imprisonment for not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. Except in the case of conviction for a first offense the sentence shall not be suspended and probation shall not be granted.

(3) A substance classified in Schedule IV shall be deemed guilty of a misdemeanor and, upon conviction, shall for a first offense be sentenced to a term of imprisonment for not more than three years or a fine of not more than three thousand dollars, or both. In the case of second or subsequent offenses, the sentence shall be twice the first offense.

(4) A substance classified in Schedule V shall be deemed guilty of a misdemeanor and, upon conviction, shall for a first offense be sentenced to a term of imprisonment for not more than one year or a fine of not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence shall be twice the first offense.

(b) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act.

Any person who violates this subsection with respect to:

(1) A controlled substance classified in Schedule I or II which is a narcotic drug under Section 11 (b) and (c) or lysergic acid diethylamide (LSD) shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than two years or fined not more than five thousand dollars, or both. For a second offense the offender shall be guilty of a felony and, upon conviction, shall be imprisoned for not more than three years or fined not more than five thousand dollars, or both. For a third or subsequent offense the offender shall be deemed guilty of a felony and, upon conviction, shall be imprisoned for not more than four years or fined not more than ten thousand dollars, or both.

(2) Any other controlled substance classified in Schedules I through V shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense the offender shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to imprisonment for not more than one year or a fine of not more than two thousand dollars, or both, except as provided in Subsection 3;

(3) Possession of more than ten grains of cocaine, one hundred milligrams of alpha- or beta-eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty-eight grams or one ounce of marihuana, ten grams of hashish or more than fifty micrograms of lysergic acid diethylamide (LSD) or its compounds shall be prima facie guilty of violation of this subsection. *Provided*, however, that any person who violates this subsection with respect to twenty-eight grams or one ounce or less of marihuana or ten grams or less of hashish shall be

deemed guilty of a misdemeanor and, upon conviction, shall be subject to imprisonment for a term not to exceed three months or a fine not to exceed one hundred dollars, or both. For a second or subsequent offense the offender shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to imprisonment for not more than six months or a fine of not more than two hundred dollars, or both.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed twice the amount of the fine.

SECTION 30. Prohibited Acts B; Penalties.—(a) It shall be unlawful for any person:

(1) Who is subject to the requirements of Sections 20 through 28 to distribute or dispense a controlled substance in violation of Section 28;

(2) Who is a registrant to manufacture, distribute, or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or this act;

(4) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this act;

(5) To refuse any entry into any premises or inspection authorized by this act; or

(6) Knowingly to keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of this act for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this act.

(b) Any person who violates this section is punishable by a civil fine of not more than one thousand dollars; *provided*, that, if the violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person shall be deemed guilty of a felony and, upon conviction, shall be imprisoned for not more than five years, or fined not more than ten thousand dollars, except that if such person is a corporation it shall be subject to a civil penalty of not

more than one hundred thousand dollars. Imposition of a civil penalty pursuant to this item shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

SECTION 31. Prohibited Acts C; Penalties.—(a) It is unlawful for any person knowingly or intentionally:

(1) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by Section 27 of this act;

(2) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or

(5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than five years, or fined not more than ten thousand dollars, or both, except that if such person is a corporation it shall be subject to a civil penalty of not more than one hundred thousand dollars.

SECTION 32. Penalties Under Other Laws.—Any penalty imposed for violation of this act shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

SECTION 33. Bar to Prosecution.—If a violation of this act is a violation of a Federal law or the law of another state, the conviction or acquittal under Federal law or the law of another state for the same act is a bar to prosecution in this State.

SECTION 34. Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense made unlawful by the provisions of this act shall, upon conviction, be fined or imprisoned

in the same manner as for the offense planned or attempted; but such fine or imprisonment shall not exceed one-half of the punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

SECTION 35. Appeals.—Any person may appeal from any order of the Board within thirty days after the filing of the order, to the court of common pleas of the county in which the aggrieved party resides or in which his place of business is located. The Board shall thereupon certify to the court the record in the hearing. The court shall review the record and the regularity and the justification for the order, on the merits, and render judgment thereon as in ordinary appeals in equity. The court may order or permit further testimony on the merits of the case, in its discretion such testimony to be given either before the judge or referee by him appointed. From such judgment of the court an appeal may be taken as in other civil actions.

SECTION 36. Distribution to Persons Under Eighteen.—Any person eighteen years of age or over who violates Section 29(a) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug under Section 11 (b) and (c) or lysergic acid diethylamide (LSD) to a person under eighteen years of age shall be deemed guilty of a felony and, upon conviction, shall be imprisoned for not more than twenty years or fined not more than thirty thousand dollars, or both, and the sentence shall not be suspended and probation shall not be granted. Any person eighteen years of age or over who violates Section 29(a) by distributing any other controlled substance listed in Schedules I through V to a person under eighteen years of age shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than ten years or fined not more than ten thousand dollars, or both.

SECTION 37. Conditional Discharge for Possession as First Offense.

(a) Whenever any person who has not previously been convicted of any offense under this act or any offense under any state or Federal statute relating to marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 29(c), except narcotic drugs under Section 11(b) and (c), the court, without entering a judgment of guilt and with the consent of the accused, may defer further

proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported facility or a facility approved by the Commissioner of Narcotics and Controlled Substances, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a non-public record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this act. Discharge and dismissal under this section may occur only once with respect to any person.

(b) Upon the dismissal of such person and discharge of the proceedings against him under Subsection (a) of this section, such person, if he was not over twenty-five years of age at the time of the offense, and if the offense did not involve a Schedule I or II substance which is a narcotic drug under Section 11(b) and (c), may apply to the court for an order to expunge from all official records (other than the non-public records to be retained as provided in Subsection (a) of this section) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-five years of age at the time of the offense, it 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 before such arrest or indictment or information. 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 indictment or information, or trial in response to any inquiry made of him for any purpose.

SECTION 38. Reduced Sentence for Accommodation Offenses.— Any person who enters a plea of guilty to or is found guilty of a violation of Section 29 (a) or (b) of this act may move for and the court shall grant a further hearing at which evidence may be presented by the person, and by the prosecution if it so desires, relating to the nature of the act on the basis of which the person has been convicted. If the convicted person establishes by clear and convincing evidence that he delivered or possessed with intent to deliver a controlled substance, except a substance in Schedule I or II which is a narcotic drug under Section 11 (b) or (c) or lysergic acid diethylamide (LSD), only as an accommodation to another individual and not with intent to profit thereby nor to induce the recipient or intended recipient of the controlled or counterfeit substance to use or become addicted to or dependent upon the substance, the court shall sentence the person as if he had been convicted of a violation of Section 29(b).

SECTION 39. Second or Subsequent Offenses. An offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this act or under any state or Federal statute relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

SECTION 40. Responsibility for Enforcement.—(a) The South Carolina Law Enforcement Division shall establish within its division a Department of Narcotics and Dangerous Drugs, which shall be administered by a director and shall be primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances. The Department, in discharging its responsibilities concerning illicit traffic in narcotics and dangerous substances and in suppressing the abuse of controlled substances, shall enforce the State plan formulated in cooperation with the Narcotics and Controlled Substance Section as such plan relates to illicit traffic in controlled and counterfeit substances.

As part of its duties the Department shall:

(1) Assist the Commissioner in the exchange of information between itself and governmental and local law enforcement officials concerning illicit traffic in and use and abuse of controlled substances.

(2) Assist the Commissioner in planning and coordinating training programs on law enforcement for controlled substances at the local and State level.

(3) Establish a centralized unit which shall accept, catalogue, file and collect statistics and make such information available for Federal, State and local law enforcement purposes.

(b) The State Board of Health shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, health care facilities and other practitioners as well as in the possession of any other individuals or institutions authorized to have possession of such substances, and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the Board by the General Assembly. Drug inspectors as provided for in Section 41 of this act, while in the performance of their duties as prescribed herein, shall have:

(1) statewide police powers;

(2) authority to carry firearms;

(3) authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas and summonses;

(4) authority to make investigations to determine whether there has been unlawful dispensing of controlled substances or the removal of such substances from regulated establishments or practitioners into illicit traffic and if such finding is made they shall report it to the Department of Narcotics and Dangerous Drugs;

(5) authority to seize property; and

(6) authority to make arrests without warrants for offenses committed in their presence.

SECTION 41. Drug Inspectors.—The Board shall designate persons holding a degree in pharmacy to serve as drug inspectors. Such inspectors shall, within the period of one year, inspect all practitioners and registrants who manufacture, dispense or distribute controlled substances, including those persons exempt from registration but who are otherwise permitted to keep controlled substances for specific purposes. The drug inspector shall submit a report by the first day of each month to the Board and a copy to the Commissioner specifying the name of the practitioner or the registrant or such exempt persons inspected, the date of inspection and any violations of this act.

SECTION 42. Administrative Inspections and Warrants.—(a) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge or magistrate of a court having jurisdiction where the inspection or seizure is to be conducted, may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the act or regulations 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 an officer or employee duly designated and 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 or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by Section 40(b) to execute it. The warrant shall state the grounds for issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be 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 they are present, or in the presence of at

least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

(b) The Board is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this act 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 where 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 so authorized by an administrative inspection warrant issued pursuant to this section an officer or employee designated by the Commissioner 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 so authorized by an administrative inspection warrant, an officer or employee designated by the Board 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 (b) (5) of this section, 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 of any such substance.

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

(a) With the consent of the owner, operator or agent in charge of the controlled premises;

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

(c) In situations involving inspection of conveyances where 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; and

(e) In all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:

(a) Financial data;

(b) Sales data other than shipment data;

(c) Pricing data;

(d) Personnel data; or

(e) Research data.

SECTION 43. Arrest Report of Drug Violators.—For the purpose of maintaining statistics concerning illicit drug traffic, all arrests for drug and narcotic violations by State and local law enforcement authorities shall be reported to the Department of Narcotics and Drugs under the South Carolina Law Enforcement Division and to the Commissioner, on forms supplied by him with space for stating the individuals involved, including age, sex, race and residence; the contraband confiscated, showing the kind, quantity and place where seized; the circumstances surrounding the arrest and any other information deemed necessary. A further report shall be made as to the disposition of the charges.

SECTION 44. Forfeitures.—(a) The following are subject to forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this act;

(2) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this act;

(3) all property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

(b) Property subject to forfeiture under this act may be seized by the Board or Department having authority upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this act;

(3) the Board or Department has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Board or Department has probable cause to believe that the property was used or is intended to be used in violation of this act.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the Board or Department making the seizure subject only to the orders of the court having jurisdiction over the forfeiture proceedings. When property is seized under this act, the Commissioner may:

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require the Board or Department to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(e) When property is forfeited under this act, the Commissioner may:

(1) retain it for official use;

(2) sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) require the Board or Department to take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau for disposition.

(f) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this act are contraband and shall be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and shall be summarily forfeited to the State.

(g) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.

(h) The failure, upon demand by the Board or Department having authority to make such demand, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

SECTION 45. Burden of Proof; Liabilities; Immunity.—(a) It shall not be necessary for the State to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this act, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this act, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

(c) No liability shall be imposed by virtue of this act upon any duly authorized State officer, engaged in the enforcement of this act, who shall be engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

SECTION 46. Prosecutions Prior to this Act.—Prosecution occurring prior to the effective date of this act is not affected or abated by this act. However, if the offense being prosecuted is similar to one set in Sections 29 through 39 of this act, then the penalties under Sections 29 through 39 shall apply if they are less than under prior law.

SECTION 47. Agents Transferred from State Board of Health.— All agents of the State Board of Health who, sixty days after the effective date of this act, are either engaged in the enforcement of laws or regulations relating to controlled or counterfeit substances, except whose primary responsibility is making accountability audits, are hereby transferred to and shall be considered part of the Department of Narcotics and Dangerous Drugs under the South Carolina Law Enforcement Division.

SECTION 48. Search Warrants.— A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the magistrate or judge of any court of record of the State having jurisdiction over the area where the property sought is located is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

SECTION 49. Section 32-1453.1 and Article 2, Chapter 10, Title 32 of the 1962 Code and Act 915 of 1966 are repealed.

SECTION 50. All fines and forfeitures levied and collected by any court or administrative agency resulting from any violation of any provision of this act shall be remitted to the Commissioner of Narcotics and Controlled Substances to be used exclusively for the treatment and rehabilitation of drug addicts within the addiction center facilities operated by the Department of Mental Health.

SECTION 51. This act shall take effect upon approval by the Governor.

Approved the 17th day of June, 1971.

(R609, H1080)

No. 446

An Act To Create The Darlington County Water And Sewer Authority.

Be it enacted by the General Assembly of the State of South Carolina :

SECTION 1. Darlington County Water and Sewer Authority created.—There is hereby created a body corporate and politic to be known as the Darlington County Water and Sewer Authority, hereinafter sometimes referred to as the "authority." Its service area shall include all of Darlington County, excluding any area within an