

**Iowa District Court
Polk County, Iowa**

CARL OLSEN,)	
)	
Petitioner,)	
)	
v.)	
)	Docket No. _____
IOWA BOARD OF PHARMACY,)	
)	
Respondent.)	

PETITION FOR JUDICIAL REVIEW

Carl Olsen respectfully petitions the Court to review the decision of the Iowa Board of Pharmacy not to make a recommendation to the Iowa General Assembly for the removal of marijuana from Schedule I of the Iowa Controlled Substances Act.

Introduction¹

In Iowa, marijuana is listed as a controlled substance in two schedules of the Iowa Controlled Substances Act (Iowa Code Chapter 124). Schedule I of the act controls substances that have no “accepted medical use in treatment in the United States” and which have a “high potential for abuse.” Schedule II controls

¹ The Introduction is intended to provide an overview of the litigation and is not part of the formal allegations of this petition.

substances that do have “accepted medical use in treatment in the United States” notwithstanding their potential for abuse. Paradoxically, marijuana appears on both lists despite the fact that they are, logically, mutually exclusive. Compare, Iowa Code §§ 124.204(4)(m) & 124.204(4)(u); Iowa Code § 124.206(7)(a). The Iowa Board of Pharmacy is vested with a legal duty to recommend schedule changes or deletions to the legislature when a controlled substance no longer meets the criteria for listing in the schedule where it has been listed. E.g., Iowa Code §§ 124.201, 124.203, 124.205.

In the United States, it is the states – and not the federal government – that define the bounds of accepted medical use of controlled substances. *See, Gonzales v. Oregon*, 546 U.S. 243 (2006)². Consequently, the proper classification of substances on the basis of their medical utility is entirely a function of decisions about medical practice made by individual states. To date, 19 jurisdictions, 18 states³ and the District of Columbia, have come to legally recognize that marijuana has accepted medical use in treatment of various medical conditions.

Based on the decisions made by those states, marijuana currently does have “accepted medical use in treatment in the United States” and no longer meets the

² Holding that the federal Controlled Substances Act does not give the Attorney General power to decide whether physician assisted suicide is an accepted medical use of controlled substances.

³ The 18 states are: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Maine, Massachusetts, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington.

statutory criteria for listing in Schedule I of the Iowa Controlled Substances Act. This case is an appeal from a decision by the Iowa Board of Pharmacy not to recommend removal of marijuana from Schedule I of Iowa's Controlled Substances Act in spite of the foregoing considerations.

Jurisdiction, Parties & Venue

1. This is an action for judicial review as authorized by Iowa Code § 17A.19 which is part of the Iowa Administrative Procedures Act.
2. The name of the petitioner is Carl Olsen ("Mr. Olsen" hereafter).
3. Mr. Olsen uses marijuana for medical and religious purposes and, consequently, has an interest in any action by the Iowa Board of Pharmacy that removes or reduces the stigma and potential for illegality attached to the medical and religious use of marijuana by himself and others.
4. Mr. Olsen is a citizen and resident of Iowa.
5. The Iowa Board of Pharmacy ("Pharmacy Board" hereafter) is the agency named as the Respondent in this action.
6. The Pharmacy Board maintains its principal headquarters in Polk County, Iowa.
7. Subject matter jurisdiction and venue of this matter properly lies in Polk County, Iowa by virtue of Iowa Code § 17A.19(2).

8. This is an appeal from a final order or declaratory ruling by the Pharmacy Board dated January 16, 2013, indicating that it will not grant the request of the Petitioner, Mr. Olsen, to recommend the removal of marijuana from Schedule I of the Iowa Controlled Substances Act. A true copy of the order is appended hereto, marked "Petition Exhibit A" and by this reference is made a part hereof.

9. The action appealed from is the refusal of the Pharmacy Board to make a recommendation to the Iowa State General Assembly that marijuana be removed from Schedule I of the Iowa Controlled Substances Act.

10. Mr. Olsen has exhausted his administrative remedies and this is an appeal from a final order of the respondent agency.

Allegations

11. Iowa Code § 124.203 requires the respondent Pharmacy Board to make recommendations to the Iowa General Assembly concerning the placement, or removal, of substances in Schedule I of the Iowa Controlled Substances Act.

12. The Pharmacy Board must recommend removal of a substance from Schedule I if either of the following two criteria are not met:

- a. the substance "has a high potential for abuse;" or
- b. the substance "has no accepted medical use in treatment in the United States..."

See, McMahon v. Board of Pharmacy, No. CV7415, Ruling on Petition for Judicial Review (Polk County, Iowa District Court, April 21, 2009, at page 3) (“Section 124.203 of the Iowa Code requires that any controlled substance have (1) a high potential for abuse, and (2) no accepted medical use in treatment in the United States before it may be classified under Schedule I”). A copy of Judge Novak’s ruling is appended hereto, marked “Petition Exhibit B” and by this reference made a part hereof.

13. The full text of the statute establishing this duty reads as follows:

124.203. Substances listed in schedule I – criteria

The board shall recommend to the general assembly that it place in schedule I any substance not already included therein if the board 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.

If the board finds that any substance included in schedule I does not meet **these** criteria, **it shall recommend** that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate.

Iowa Code § 124.203 (Emphasis Supplied)

14. Under our system of dual state and federal governments, known as federalism, the decision as to what constitutes “accepted medical use in treatment”

of a substance is a decision made by the states and not by the federal government.

Gonzales v. Oregon, 546 U.S. 243 (2006).

15. When marijuana was first listed in Schedule I of Iowa's Controlled Substances Act, no state had approved it for medical treatment.

16. Now, 18 states and the District of Columbia accept the use of marijuana in medical treatment.

17. Because marijuana no longer meets all the criteria of Iowa Code § 124.204 the Pharmacy Board is under a legal duty to recommend to the Iowa General Assembly that marijuana be removed from Schedule I and either placed in a different schedule or removed from control altogether. Iowa Code § 124.203.

18. On August 3, 2012, Mr. Olsen filed a Petition for Agency Action with the Iowa Board of Pharmacy requesting that the Board should proceed with its legal duty to recommend to the Iowa General Assembly that marijuana be removed from Schedule I.

19. The Pharmacy Board met on November 9, 2012, at which time it considered and rejected Mr. Olsen's petition.

20. Subsequently, the Pharmacy Board issued a formal "Ruling" dated January 16, 2013, denying the relief requested by Mr. Olsen and providing its reasons therefore. A true copy of the ruling is appended hereto, marked "Petition Exhibit A" and by this reference made a part hereof.

21. The Pharmacy Board's ruling states that the Pharmacy Board recommended that marijuana be removed from Schedule I in 2010, but that the additional evidence Mr. Olsen submitted on August 3, 2012, was insufficient to recommend that marijuana be removed from Schedule I on November 9, 2012. A true copy of the Pharmacy Board's recommendation from 2010 is appended hereto, marked "Petition Exhibit C" and by this reference made a part hereof.

22. The Pharmacy Board's ruling does not state that it no longer recommends changing marijuana's classification.

23. The statute requires the Pharmacy Board to recommend reclassification annually if it finds that marijuana is not classified correctly.

24. Marijuana's classification was not changed by the Iowa State 84th General Assembly in 2011 or 2012 and marijuana is still classified the same as it was in November of 2010 when the Pharmacy Board made its prior recommendation.

25. Insofar as the Pharmacy Board's ruling does not say the Pharmacy Board has changed its recommendation from 2010 regarding the reclassification of marijuana, the Board committed clear legal error and abused its discretion by ignoring the clear language of the statute setting forth the criteria required for the listing of substances in Schedule I of the Iowa Controlled Substances Act.

26. Where it has been asserted that 18 states and the District of Columbia legally recognize the legitimacy of marijuana for use in medical treatment, the question of whether marijuana has “accepted medical use in treatment in the United States” within the meaning of Iowa Code § 124.203 is a pure question of law which can, and should, be resolved in the first instance by this Court.

27. In its recommendation in 2010, the Pharmacy Board conceded that marijuana no longer meets the criteria for Schedule I.

28. The actions and determinations of the Pharmacy Board as recounted herein were:

- a. Beyond the authority delegated to the agency by any provision of law.
- b. Based on an erroneous interpretation of law whose interpretation has not been clearly vested by a provision of law in the discretion of the agency.
- c. Taken without following the prescribed decision-making process.
- d. The product of a decision-making process in which the agency did not consider relevant and important matter relating to the propriety or desirability of the action in question that a rational decision maker in similar circumstances would have considered prior to taking that action, and
- e. Is otherwise, arbitrary and capricious or an abuse of discretion.

Prayer for Relief

WHEREFORE, the Petitioner prays for:

A. A judgment setting aside the Ruling and decision of the Iowa Board of Pharmacy, as challenged herein;

B. A declaratory ruling, establishing that, as a matter of law, marijuana has “accepted medical use in treatment in the United States;”

C. An injunction or writ of mandamus requiring the Iowa Board of Pharmacy to reconsider its refusal to recommend removal of marijuana from Schedule I of the Iowa Controlled Substances Act, Iowa Code Chapter 124, in light of this Court’s decision and reasoning, the clear commandments of the statute, and an affirmative good faith consideration of the criteria imposed for listing under Iowa Code § 124.203.

Respectfully Submitted:

Carl Olsen, Pro Se
130 E. Aurora Ave.
Des Moines, IA 50313-3654
515-343-9933

Petitioner

Affidavit of Service

State of Iowa)
) **SS:**
County of Polk)

I certify under penalty of perjury that on or before April 1, 2013, and in compliance with the notice requirements of Iowa Code Section 17A.19(2), I effected service of notice of this action by mailing copies of this petition to all parties of record in the underlying case before the Iowa Board of Pharmacy addressed to the parties or their attorney of record as follows:

Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

Meghan Gavin
Assistant Iowa Attorney General
1305 E. Walnut Street
Des Moines, IA 50319

Carl Olsen, Pro Se Petitioner

Petition Exhibit 1

BEFORE THE IOWA BOARD OF PHARMACY

PETITION FOR RECOMMENDATION)	
TO REMOVE MARIJUANA FROM)	RULING ON PETITION
SCHEDULE I OF THE IOWA UNIFORM)	FOR AGENCY ACTION
CONTROLLED SUBSTANCE ACT)	


On August 3, 2012, Cal Olsen filed a Petition for Agency Action with the Iowa Board of Pharmacy. The Petition requested that the Board recommend to the Iowa General Assembly that marijuana be reclassified. The Petition included supporting documentation.

The Board considered the Petition and supporting documentation at its bimonthly meeting on November 8 and 9, 2012. The Board voted to deny the Petition. Iowa law provides:

Annually, within thirty days after the convening of each regular session of the general assembly, the Board shall recommend to the general assembly any deletions from, or revisions in the schedules of substances, enumerated in sections 124.204, 124.206, 124.208, 124.210, or 124.212, *which it deems necessary or advisable.*

Iowa Code § 124.201(1) (2011) (emphasis added).

The Board recommended the reclassification of marijuana in 2010. The General Assembly took no action on the Board's recommendation at that time. On January 16, 2013, the Board concluded that the supporting documentation did not contain sufficient, new scientific information to warrant recommending the reclassification of marijuana this year.



SUSAN M. FREY, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

<p>GEORGE McMAHON, BRYAN SCOTT and BARBARA DOUGLASS,</p> <p>Petitioners,</p> <p>CARL OLSEN,</p> <p>Intervenor,</p> <p>v.</p> <p>IOWA BOARD OF PHARMACY,</p> <p>Respondent.</p>	<p>Case No. CV7415</p> <p>RULING ON PETITION FOR JUDICIAL REVIEW</p> <p>FILED POLK COUNTY IOWA 2009 APR 21 PM 4:14 CLERK DISTRICT COURT</p>
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Introduction

The above-captioned matter came before the Court for hearing on March 27, 2009. Petitioners were represented by attorney Randall Wilson. Intervenor, Carl Olsen, was present on behalf of himself. Respondent was represented by attorney Scott Galenbeck. Following oral argument and upon review of the court file and applicable law, the Court enters the following:

Statement of the Case

Petitioners filed a petition with the Iowa Board of Pharmacy on June 24, 2008, seeking removal of marijuana from Schedule I of Iowa's Controlled Substances Act. Petitioners argued that Iowa Code section 124.203 requires the Iowa Board of Pharmacy (hereinafter the "Board") to recommend to the legislature that marijuana be rescheduled because it no longer meets the legislative criteria established for the listing of Schedule I substances. The Board issued a final decision denying Petitioners' request on October 7, 2008. Petitioners have now appealed the Board's decision in this action for judicial review, and argue that the Board's decision is based upon an erroneous interpretation of law.

Standard of Review

On judicial review of agency action, the district court functions in an appellate capacity to apply the standards of Iowa Code section 17A.19. *Iowa Planners Network v. Iowa State Commerce Comm'n*, 373 N.W.2d 106, 108 (Iowa 1985). The Court shall reverse, modify, or grant other appropriate relief from agency action if such action was based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency. IOWA CODE § 17A.19(10)(c). The Court shall not give deference to the view of the agency with respect to particular matters that have not been vested by a provision of law in the discretion of the agency. IOWA CODE § 17A.19(11)(b). Appropriate deference is given to an agency's interpretation of law when the contrary is true, although "the meaning of any statute is always a matter of law to be determined by the court." *Birchansky Real Estate, L.C. v. Iowa Dept of Public Health*, 737 N.W.2d 134, 138 (Iowa 2007); IOWA CODE § 17A.19(11)(c). The agency's findings are binding on appeal unless a contrary result is compelled as a matter of law. *Ward v. Iowa Dept. of Transp.*, 304 N.W.2d 236, 238 (Iowa 1981).

Analysis

Marijuana is identified in the Iowa Controlled Substances Act as a Schedule I controlled substance. *See* IOWA CODE § 124.204 (2009). Section 124.203 of the Iowa Code sets forth the criteria for classifying controlled substances under Schedule I. Section 124.203 provides:

The board shall recommend to the general assembly that it place in schedule I any substance not already included therein if the board 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.

IOWA CODE § 124.203. This section further provides that the Board “shall recommend” that the general assembly place a listed Schedule I substance in a different schedule or remove it if it does not meet the previously mentioned criteria. *Id.*

Petitioners argued before the Board that marijuana no longer meets the criteria for classification as a Schedule I controlled substance because marijuana now has accepted medical use in treatment in the United States. In support of their argument, Petitioners cited to the laws of other states that have now authorized the use of marijuana for medicinal purposes. The Board addressed Petitioners’ argument and request for reclassification in its final order by explaining:

While neither accepting or rejecting Olsen’s assertion that the medicinal value of marijuana is established by legislation adopted in other states, the Board notes that before recommending to the Iowa legislature that marijuana be moved from schedule I to schedule II, the Board would also need to make a finding that marijuana lacks a high potential for abuse. *See* Iowa Code 124.203 (2007). There exists no basis for such a finding in the record before the Board, as Olsen’s submission offers no evidence or information on marijuana’s potential for abuse. Absent such evidence or information, Olsen’s request must be denied.

(Order, p. 2).

Section 124.203 of the Iowa Code requires that any controlled substance have (1) a high potential for abuse, *and* (2) no accepted medical use in treatment in the United States before it may be classified under Schedule I. Because the Code imposes both criteria as a prerequisite to Schedule I classification, the failure to meet either would require recommendation to the legislature for removal or rescheduling. *See id.* As such, the Board’s statement that it “would also need to make a finding that marijuana lacks a high potential for abuse” before it could recommend to the legislature that marijuana be moved from Schedule I to Schedule II is based upon an erroneous interpretation of law.¹

¹¹ Pursuant to Iowa Code section 124.205, Schedule II substances must be found to have “currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions,” in order to be classified as such. *See* IOWA CODE § 124.205. Controlled substances must also be found to have a “high

The Board now argues in this action for judicial review that its decision should be affirmed by this Court because Petitioners failed to make an adequate record before the agency. The Board asserts that Petitioners failed to present evidence addressing all of the factors delineated in Iowa Code section 124.201. However, this is not the Board's stated reason for its decision in its written order. The Court may not rely on the Board's post hoc rationalizations for purposes of affirming the agency action at issue. Petitioners were entitled to a written explanation of the reasons for the Board's decision regardless of whether the agency action at issue was taken in response to a request for the adoption of agency rules, taken in response to a request for a declaratory order, or taken in a contested case proceeding. *See* IOWA CODE §§ 17A.7(1), 17A(4)(d), 17A.16; *Ward v. Iowa Dept. of Transp.*, 304 N.W.2d 236, 238 (Iowa 1981). The Court acknowledges that the factors set forth in Iowa Code section 124.201 are relevant in the Board's determination of whether the statutory criteria for Schedule I classification are satisfied.² However, Iowa Code section 124.203 clearly requires that the Board recommend removal of marijuana from Schedule I or reclassification under a different schedule if it is found that marijuana "[h]as no accepted medical use in treatment in the United States, or lacks accepted safety for use in treatment under medical supervision." If the Board believes that the evidence presented by Petitioners was insufficient to support such a finding, it should have so stated in its order. Remand of the Board's decision is required so that Board may address Petitioners'

potential for abuse" before they may be classified under Schedule II. *Id.* As such, one of the main characteristics that distinguishes Schedule II substances from those listed in Schedule I is accepted medical use in treatment in the United States. It is therefore erroneous to state that a substance classified under Schedule I cannot be reclassified as a Schedule II substance if the substance is found to present a high potential for abuse. Both Schedule I and Schedule II controlled substances share the same characteristic of having a high potential for abuse. A finding of accepted medical use for treatment in the United States alone would be sufficient to warrant recommendation for reclassification or removal pursuant to the language of Iowa Code section 124.203.

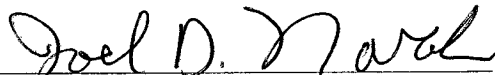
² Iowa Code section 124.201 requires that the Board consider these factors before making a rescheduling recommendation to the legislature. The Board is apparently of the position that these factors must also be considered before recommending rescheduling or removal pursuant to the terms of Iowa Code section 124.203.

Petition through proper application of the law. The Board must determine whether the evidence presented by Petitioner is sufficient to support a finding that marijuana has accepted medical use in the United States and does not lack accepted safety for use in treatment under medical supervision.

ORDER

IT IS THE ORDER OF THE COURT that the Ruling on Appeal of the Iowa Board of Pharmacy is hereby **REMANDED**.

SO ORDERED this 21 day of April, 2009.


JOEL D. NOVAK, District Judge
Fifth Judicial District of Iowa

Original Filed.

Copies mailed to:

Randall Wilson
901 Insurance Exchange Bldg.
Des Moines, IA 50309
ATTORNEY FOR PETITIONERS

Scott Galenbeck
1305 E. Walnut Street
Des Moines, IA 50319
ATTORNEY FOR RESPONDENT

Carl Olsen
130 E. Aurora Ave.
Des Moines, IA 50313
INTERVENOR

Petition Exhibit 3 - Page 1 of 4
Senate Study Bill 1016 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH/BOARD OF
PHARMACY BILL)

A BILL FOR

1 An Act revising the controlled substances schedules, and
2 providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. _____ H.F. _____

1 Section 1. Section 124.204, subsection 4, paragraph m, Code
2 2011, is amended by striking the paragraph.

3 Sec. 2. Section 124.204, subsection 4, paragraph u,
4 unnumbered paragraph 1, Code 2011, is amended to read as
5 follows:

6 ~~Tetrahydrocannabinols, except as otherwise provided~~
7 ~~by rules of the board for medicinal purposes,~~ meaning
8 tetrahydrocannabinols naturally contained in a plant of
9 the genus Cannabis (Cannabis plant) as well as synthetic
10 equivalents of the substances contained in the Cannabis plant,
11 or in the resinous extractives of such plant, and synthetic
12 substances, derivatives, and their isomers with similar
13 chemical structure and pharmacological activity to those
14 substances contained in the plant, such as the following:

15 Sec. 3. Section 124.204, subsection 4, Code 2011, is amended
16 by adding the following new paragraph:

17 NEW PARAGRAPH. *ai.* 5-methoxy-N,N-dimethyltryptamine.

18 Some trade or other names:

19 5-methoxy-3-[2-(dimethylamino)ethyl]indole;5-MeO-DMT.

20 Sec. 4. Section 124.204, subsection 7, Code 2011, is amended
21 by striking the subsection.

22 Sec. 5. Section 124.204, subsection 9, Code 2011, is amended
23 to read as follows:

24 9. *Other materials.* Any material, compound, mixture,
25 or preparation which contains any quantity of the following
26 substances:

27 ~~a. N-[1-benzyl-4-piperidyl]-N-phenylpropanamide~~
28 ~~(benzylfentanyl), its optical isomers, salts and salts of~~
29 ~~isomers.~~

30 ~~b. N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide~~
31 ~~(thenylfentanyl), its optical isomers, salts and salts of~~
32 ~~isomers.~~

33 a. 5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-
34 phenol. Other names: CP-47,497.

35 b. 5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-

S.F. _____ H.F. _____

1 phenol. Other names: cannabicyclohexanol and
2 CP-47,497 C8 homologue.

3 c. 1-Butyl-3-(1-naphthoyl)indole. Other names: JWH-073.

4 d. 1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole. Other
5 names: JWH-200.

6 e. 1-Pentyl-3-(1-naphthoyl)indole. Other names: JWH-018
7 and AM678.

8 Sec. 6. Section 124.206, subsection 6, Code 2011, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. c. Immediate precursor to fentanyl:
11 4-anilino-N-phenethyl-4-piperidine (ANPP).

12 Sec. 7. Section 124.206, subsection 7, paragraph a, Code
13 2011, is amended to read as follows:

14 ~~a. Marijuana when used for medicinal purposes pursuant to~~
15 ~~rules of the board.~~

16 Sec. 8. Section 124.208, subsection 6, Code 2011, is amended
17 by adding the following new paragraphs:

18 NEW PARAGRAPH. bh. Boldione
19 (androsta-1,4-diene-3,17-dione).

20 NEW PARAGRAPH. bi. Desoxymethyltestosterone
21 (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol);
22 also known as madol.

23 NEW PARAGRAPH. bj. 19-nor-4,9(10)-androstadienedione
24 (estra-4,9(10)-diene-3,17-dione).

25 EXPLANATION

26 This bill revises the lists of drugs on the controlled
27 substances schedules, and provides penalties.

28 The bill removes marijuana from schedule I and reclassifies
29 it as a schedule II controlled substance. The bill also
30 strikes references to the authority of the board of pharmacy to
31 adopt rules for the use of marijuana or tetrahydrocannabinols
32 for medicinal purposes. A schedule I controlled substance is a
33 highly addictive substance that has no accepted medical use in
34 the United States and a scheduled II controlled substance is a
35 highly addictive substance that has an accepted medical use in

S.F. _____ H.F. _____

1 the United States.

2 The reclassification of marijuana from a schedule I
3 controlled substance to a schedule II controlled substance
4 permits a physician to issue a prescription for marijuana.

5 The bill also revises the lists of drugs in the controlled
6 substance schedules to conform with action undertaken by
7 the federal drug enforcement administration. The bill
8 classifies five synthetic cannabinoids, more commonly known
9 as "K2", as schedule I controlled substances. The bill
10 adds a drug commonly referred to as 5-MeO-DMT to the list
11 of schedule I controlled substances as well. The bill also
12 removes benzylfentanyl and thenylfentanyl from the schedule
13 I classification. The bill classifies the substance ANPP, a
14 precursor substance to the controlled substance fentanyl, as a
15 schedule II controlled substance. The bill classifies three
16 anabolic steroids as schedule III controlled substances. A
17 controlled substance classified as a schedule III substance is
18 a substance that has potential for abuse which is less than
19 schedule I and II substances but has an accepted medical use in
20 the United States.

21 It is a class "C" felony pursuant to Code section 124.401,
22 subsection 1, paragraph "c", subparagraph (8), for any
23 unauthorized person to violate a provision of Code section
24 124.401 involving a classified substance placed on schedule
25 I, II, or III pursuant to the bill. The penalties remain
26 unchanged for marijuana under the bill. The penalties under
27 Code section 124.401 range from a class "B" felony punishable
28 by up to 50 years of confinement to a serious misdemeanor
29 punishable by up to six months of confinement depending on the
30 amount of marijuana involved in the offense.