deemed to be a "banned hazardous substance" pending the completion of proceedings relating to the issuance of such regulation.

C. Any glue, plastic cement or similar adhesive product, packaged in a container containing 4 ounces or less by volume, and containing a solvent which has the property of releasing toxic vapors or fumes which does not include a noxious additive in such form and proportions as required by the Director. The term "noxious additive" shall mean any element or compound designated and approved by the Director for use as a safe and effective ingredient of glue, plastic cement or similar adhesive product containing a solvent having the property of releasing toxic vapors or fumes for the purpose of discouraging the intentional smelling or inhaling of the fumes of such glue, plastic cement or similar adhesive product.

Containers of such glue, plastic cement or similar adhesive product shall have indicated on the label the fact that the glue, plastic cement or similar adhesive product contains such required additive.

§ 2. The effective date of this Amendatory Act of 1971 is January 1, 1972.

Passed in the General Assembly June 4, 1971.

Approved August 16, 1971. (Ill. Rev. Stat. Chap. 111½, Par. 252-16.)

PUBLIC ACT 77-757.

FOODS.

ILLINOIS CONTROLLED SUBSTANCE ACT—CREATES—REPEALS ACTS AND SECTIONS.

(House Bill No. 787. Approved August 16, 1971.)

AN ACT to establish a uniform system for the control of the manufacture, distribution, and possession of controlled dangerous substances, to establish schedules of controlled dangerous substances, to provide enforcement procedures and penalties for any violations thereof, to establish a commission to coordinate efforts against dangerous substance abuse and develop an educational program for administration in Illinois schools, and to repeal certain Acts therein named.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

ARTICLE I

Section 100. Legislative intent.

It is the intent of the General Assembly, recognizing the rising incidence in the abuse of drugs and other dangerous substances and its resultant damage to the peace, health, and welfare of the citizens of Illinois, to pro-

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vide a system of control over the distribution and use of controlled substances which will more effectively: (1) limit access of such substances only to those persons who have demonstrated an appropriate sense of responsibility and have a lawful and legitimate reason to possess them; (2) deter the unlawful and destructive abuse of controlled substances; (3) penalize most heavily the illicit traffickers or profiteers of controlled substances, who propagate and perpetuate the abuse of such substances with reckless disregard for its consumptive consequences upon every element of society; (4) acknowledge the functional and consequential differences between the various types of controlled substances and provide for correspondingly different degrees of control over each of the various types; (5) unify where feasible and codify the efforts of this State to conform with the regulatory systems of the Federal government and other states to establish national coordination of efforts to control the abuse of controlled substances; and (6) provide law enforcement authorities with the necessary resources to make this system efficacious.

It is not the intent of the General Assembly to treat the unlawful user or occasional petty distributor of controlled substances with the same severity as the large-scale, unlawful purveyors and traffickers of controlled substances. To this end, guidelines have been provided, along with a wide latitude in sentencing discretion, to enable the sentencing court to order penalties in each case which are appropriate for the purposes of this Act.

§ 101. This Act shall be known as and may be citied as the "Illinois Controlled Substances Act."

§ 102. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any individual who habitually uses any controlled substance so as to endanger the public morals, health, safety or welfare, or who is so far addicted to the use of controlled substances as to have lost the power of self control with reference to his addiction.

(b) "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 lawful direction of the practitioner.

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

(d) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United State Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

(g) "Dangerous Drugs Advisory Council" means the Dangerous Drugs Advisory Council of the State of Illinois or its successor agency.

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

(i) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(j) "Department" means the Department of Law Enforcement of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Mental Health" means the Department of Mental Health of the State of Illinois or its successor agency.

(m) "Department of Registration and Education" means the Department of Registration and Education of the State of Illinois or its successor agency.

(n) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Director, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Director, after investigation, has found to have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(o) "Director" means the Director of the Department of Law Enforcement or his designated agents.

(p) "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 that delivery.

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(u) "Immediate precursor" means a substance:

(1) which the Director has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(v) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(w) "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 of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his own use; or

(2) by a practitioner, or his authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(x) "Narcotic drug" means any of the following, whether produced 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:

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

Changes or additions indicated by *italics* deletions by ~~strikeout~~.

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

(3) opium poppy and poppy straw;

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

(y) "Nurse" means a registered nurse licensed under the Illinois Nursing Act.

(z) "Official prescription blanks" means the triplicate prescription forms supplied to practitioners by the Department for prescribing Schedule II controlled substances.

(aa) "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.

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

(cc) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

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

(ee) "Pharmacist" means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act.

(ff) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act.

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

(hh) "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacist, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ii) "Prescriber" means a physician, dentist or veterinarian who issues a prescription.

(jj) "Prescription" means a lawful written or verbal order of a physician, dentist or veterinarian for any controlled substance.

(kk) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance.

(ll) "Registrant" means every person who is required to register under Section 302 of this Act.

(mm) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(nn) "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

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

ARTICLE II

§ 201. (a) The Department shall carry out the provisions of this Article. The Director, with the concurrence and approval of the Dangerous Drugs Advisory Council or its successor agency may add substances to or delete or reschedule all controlled substances in the Schedules of Sections 204, 206, 208, 210 and 212 of this Act. In making a determination regarding a substance, the Director and the Dangerous Drugs Advisory Council shall consider the following:

(1) the actual or relative potential for abuse;

(2) the scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse;

(5) the scope, duration, and significance of abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychological or physiological dependence;

(8) whether the substance is an immediate precursor of a substance already controlled under this Article;

(9) the immediate harmful effect in terms of potentially fatal dosage; and

(10) the long-range effects in terms of permanent health impairment.

(b) After considering the factors enumerated in subsection (a) the Director shall make findings with respect thereto and issue a rule controlling the substance if he finds the substance has a potential for abuse. No rule adding, deleting or rescheduling a controlled substance shall have any effect prior to the concurrence of the Dangerous Drugs Advisory Council. Each such rule shall then be submitted to the General Assembly, in the form of a proposed law amending this Act, and unless the proposed law is adopted by the General Assembly and enacted into law within 2 years after the Director has issued the rule, such rule shall expire and have no further force and effect.

(c) If the Director designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under Federal law and notice thereof is given to the Director, the Director shall similarly control the substance under this Act after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30 day period the Director objects, or a party adversely affected files with the Director substantial written objections objecting to inclusion, rescheduling, or deletion. In that case, the Director shall publish the reasons for objection or the substantial written objections and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Director shall publish his decision, by means of a rule, which shall be final unless altered by statute. Upon publication of objections to inclusion, rescheduling or deletion under this Act by the Director, control under this Act is stayed until the Director publishes his ruling.

(e) The Director shall by rule exclude any non-narcotic substances from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

(f) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this title unless controlled after the date of such enactment pursuant to the foregoing provisions of this section.

(g) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in The Liquor Control Act and the Tobacco Products Tax Act.

§ 202. The controlled substances listed or to be listed in the schedules in sections 204, 206, 208, 210 and 212 are included by whatever official, common, usual, chemical, or trade name designated.

§ 203. The Director shall issue a rule scheduling a substance in Schedule I if he finds that:

(1) the substance has high potential for abuse; and

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

§ 204. (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 these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol or its isomers including Alpha-acetylmethadol, and Beta-acetylmethadol;

(2) Allylprodine;

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(3) Alphameprodine;
(4) Dimepheptanol (Methadol, Bimethadol) or its isomers including Alphamethadol, Betamethadol;
(5) Benzethidine;
(6) Betameprodine;
(7) Betaprodine;
(8) Clonitazene;
(9) Dextromoramide including Levomoramide and Racemoramide;
(10) Dextrorphan;
(11) Diampromide;
(12) Thiambutene (Diethylthiambutene);
(13) Dimenoxadol;
(14) Dimethylthiambutene (Aminobutene);
(15) Dioxaphetylbutyrate;
(16) Dipipanone (Pipadone);
(17) Ethylmethylthiambutene;
(18) Etonitazene;
(19) Carbetidine (Etoxeridine);
(20) Furethidine;
(21) Bemidone (Hydroxypethidine);
(22) Ketobemidone;
(23) Levophenacylmorphan;
(24) Morpheridine;
(25) Noracymethadol;
(26) Norlevorphanol;
(27) Normethadone (Mepidon);
(28) Norpipanone;
(29) Phenadoxone (Morphodone, Heptone);
(30) Phenampromide;
(31) Phenomorphan;
(32) Phenoperidine;
(33) Pirinitramide;
(34) Proheptazine;
(35) Properidine (Ipropethidine);
(36) Trimeperidine;

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

(1) Acetyldihydrocodeine;
(2) Benzylmorphine;
(3) Codeine methylbromide (Eucodin);
(4) Codeine N-Oxide;
(5) Cyprenorphine;

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(6) Desomorphine;
(7) Dihydromorphine;
(8) Etorphine and its salts including acetorphine;
(9) Heroin;
(10) Oxymorphone (Hydromorphinol);
(11) Methyldihydromorphine;
(12) Morphine methylbromide;
(13) Morphine methylsulfonate;
(14) Morphine N-Oxide;
(15) Myrophine;
(16) Nicocodeine;
(17) Morphinedinicotinate (Nicomorphine);
(18) Normorphine;
(19) Pholcodine;
(20) Dihydrocodeninone Enol Acetate; Acetyldihydrocodeinone (Thebacon);
(21) Diacetyldihydromorphine (Dihydroheroin);

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

(1) 3, 4-methylenedioxyamphetamine (alpha-methyl, 3, 4-methylenedioxyphen - ethylamine, methylenedioxyamphetamine, MDA);
(2) 3-methoxy-4, 5-methylenedioxyamphetamine, MMDA;
(3) 3, 4, 5-trimethoxyamphetamine (TMA);
(4) 5-hydroxydimethyltryptamine (Bufotenine);
(5) Diethyltryptamine (DET);
(6) Dimethyltryptamine (DMT);
(7) 4-methyl, 2, 5-dimethoxyamphetamine (DOM, STP);
(8) Ibogaine;
(9) Lysergic acid diethylamide;
(10) 3, 4, 5-trimethoxyphenethylamine (Mescaline);
(11) Peyote;
(12) N-ethyl-3-piperidyl benzilate (JB 318);
(13) N-methyl-3-piperidyl benzilate;
(14) Psilocybin;
(15) Psilocyn;
(16) Alpha-methyltryptamine (AMT);

§ 205. The Director shall issue a rule scheduling a substance in Schedule II if he finds that:

(1) the substance has high potential for abuse;
(2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

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(3) the abuse of the substance may lead to severe psychological or physiological dependence.

§ 206. (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 opiates, 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 subparagraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves, cocaine 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 of coca leaves, which extractions do not contain cocaine or ecgonine.

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

(1) Alphaprodine;
(2) Anileridine;
(3) Bezitramide;
(4) Dihydrocodeine;
(5) Diphenoxylate;
(6) Fentanyl;
(7) Isomethadone;
(8) Levomethorphan;
(9) Levorphanol (Levorphan);
(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-phenylpiperidine;
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

Changes or additions indicated by *italics* deletions by ~~strikeout~~.

(18) Phenazocine;
(19) Piminodine;
(20) Racemethorphan;
(21) Racemorphan.

(d) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

§ 207. The Director shall issue a rule scheduling a substance in Schedule III if he finds that:

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

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

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

§ 208. (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) 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;
(2) Chlorhexadol;
(3) Glutethimide;
(4) Methyprylon;
(5) Sulfondiethylmethane;
(6) Sulfonethylmethane;
(7) Sulfonmethane;
(8) Phencyclidine (PCP);
(9) Lysergic acid;
(10) Lysergic acid amide.

(d) Nalorphine.

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

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

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

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

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

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

(7) not more than 100 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, or any of its salts, per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(f) Paregoric.

(g) The Director may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

§ 209. The Director shall issue a rule scheduling a substance in Schedule IV if he finds that:

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

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

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

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§ 210. (a) The controlled substances listed 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) Ethclorvynol;
(5) Ethinamate;
(6) Methohexital;
(7) Meprobamate;
(8) Mephobarbital (Methylphenobarbital);
(9) Paraldehyde;
(10) Pentaerythritol Chloral (Petrichloral);
(11) Phenobarbital.

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

§ 211. The Director shall issue a rule scheduling a substance in Schedule V if he finds that:

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

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

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

§ 212. (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 also contains 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, or any of its salts, per 100 milliliters or per 100 grams;

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

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(3) not more than 100 milligrams of ethylmorphine, or any of its salts, 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 2 grains of opium, except that preparations containing opium which would otherwise be exempted, shall be subject to those provisions of the Act which require a prescription for the dispensing of Schedule V controlled substances in a retail drug store unless they contain non-narcotic medicinal ingredients which prevent the extraction of the opium with relative technical simplicity. Paregoric shall not be deemed to contain such ingredients unless the paregoric is contained in manufactured products such as Donnagel-P G and Parepectolin.

(c) Any compound, mixture or preparation which contains any quantity of any controlled substance when such compound, mixture or preparation is not otherwise controlled in Schedules I, II, III or IV.

§ 213. The Department shall revise and republish the Schedules semi-annually for two years from the effective date of this Act, and thereafter annually. If the Director fails to republish the Schedules, the last published Schedules shall remain in full force and effect.

ARTICLE III

§ 301. The Department of Registration and Education, in consultation with the Department of Law Enforcement, may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this State.

§ 302. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this State, must obtain annually a registration issued by the Department of Registration and Education in accordance with its rules.

(b) Persons registered by the Department of Registration and Education under this Act to manufacture, distribute, or dispense controlled substances may possess, manufacture, distribute, or dispense those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(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 employer's lawful business or employment;

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

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(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful prescription of a practitioner or in lawful possession of a Schedule V substance;

(4) officers and employees of this State or of the United States while acting in the lawful course of their official duties which requires possession of controlled substances.

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

(e) The Department of Registration and Education or the Department of Law Enforcement may inspect the controlled premises, as defined in Section 502 of this Act, of a registrant or applicant for registration in accordance with this Act and the rules promulgated hereunder.

§ 303. (a) The Department of Registration and Education shall register an applicant to manufacture, distribute or dispense controlled substances included in Sections 204, 206, 208, 210 and 212 of this Act unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Department of Registration and Education shall consider the following:

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

(2) compliance with applicable Federal, State and local law;

(3) any convictions of the applicant under any law of the United States or of any State relating to any controlled substance;

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

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

(6) suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled substances as authorized by Federal law;

(7) whether the applicant is suitably equipped with the facilities appropriate to carry on the operation described in his application;

(8) whether the applicant is of good moral character or, if the applicant is a partnership, association, corporation or other organization, whether the partners, directors, governing committee and managing officers are of good moral character; and

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

(b) No registration shall be granted to or renewed for any person who has within 5 years been convicted of a wilful violation of any law of the United States or any law of any State relating to controlled substances, or

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who is found to be deficient in any of the matters enumerated in subsections (a) (1) through (a) (8).

(c) Registration under subsection (a) does not entitle a registrant to manufacture distribute or dispense controlled substances in Schedules I or II other than those specified in the registration.

(d) Practitioners must be registered to dispense any controlled substances in Schedules II through V if they are authorized to dispense or conduct research with controlled substances under the law of this State.

(e) If an applicant for registration is registered under the Federal law to manufacture, distribute or dispense controlled substances, upon filing a completed application for registration in this State and payment of all fees due hereunder, he shall be registered in this State to the same extent as his Federal registration, unless, within 30 days after completing his application in this State, the Department of Registration and Education notifies the applicant that his application has not been granted. A practitioner who is in compliance with the Federal law with respect to registration to dispense controlled substances in Schedules II through V need only send a current copy of that Federal registration to the Department of Registration and Education and he shall be deemed in compliance with the registration provisions of this State.

(f) The fee for registration as a manufacturer or wholesale distributor of controlled substances shall be $50.00 per year, except that the fee for registration as a manufacturer or wholesale distributor of controlled substances that may be dispensed without a prescription under this Act shall be $15.00 per year. Each such registration shall expire on the 31st day of December of each year.

§ 304. (a) A registration under Section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Department of Registration and Education upon a finding that the registrant:

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

(2) has been convicted of a felony under any law of the United States or any State relating to any controlled substance; or

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

(4) has been convicted of bribery, perjury, or other infamous crime under the laws of the United States or of any State; or

(5) has violated any provision of this Act or any rules promulgated hereunder, whether or not he has been convicted of such violation.

(b) The Department of Registration and Education may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) The Department of Registration and Education shall promptly notify the Bureau and the Department of Law Enforcement or their succes-

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sor agencies, of all orders denying, suspending or revoking registration, all forfeitures of controlled substances, and all final court dispositions, if any, of such denials, suspensions, revocations or forfeitures.

(d) If Federal registration of any registrant is suspended, revoked, refused renewal or refused issuance, then the Department of Registration and Education shall issue a notice and conduct a hearing in accordance with Section 305 of this Act.

§ 305. (a) Before denying, refusing renewal of, suspending or revoking a registration, the Department of Registration and Education shall serve upon the applicant or registrant, by registered mail at the address in the application or registration or by any other means authorized under the Civil Practice Act or Rules of the Illinois Supreme Court for the service of summons or subpoenas, a notice of hearing to determine why registration should not be denied, refused renewal, suspended or revoked. The notice shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Department of Registration and Education at a reasonable time and place. These proceedings shall be conducted in accordance with the provisions of the "Civil Administrative Code of Illinois," Sections 60, 60a, 60b, 60c, 60d, 60e, 60f, 60g, and 60h, as those sections now exist or shall be amended from time to time, without regard to any criminal prosecution or other proceeding. Except as authorized in subsection (b), proceedings to refuse renewal or suspend or revoke registration shall not abate the existing registration which shall remain in effect until the Department of Registration and Education has held the hearing called for in the notice and found that the registration shall no longer remain in effect.

(b) If the Department of Registration and Education finds that there is an imminent danger to the public health or safety by the continued manufacture, distribution or dispensing of controlled substances by the registrant, the Department of Registration and Education may, upon the issuance of a written ruling stating the reasons for such finding and without notice or hearing, suspend such registrant. The suspension shall continue in effect for not more than 14 days during which time the registrant shall be given an opportunity to be heard. If after the hearing the Department of Registration and Education finds that the public health or safety requires the suspension to remain in effect it shall so remain until the ruling is terminated by its own terms or subsequent ruling or is dissolved by a court of competent jurisdiction upon determination that the suspension was wholly without basis in fact and law.

(c) If, after a hearing as provided in subsection (a), the Department of Registration and Education finds that a registration should be refused renewal, suspended or revoked, a written ruling to that effect shall be entered. The Department of Registration and Education's ruling shall remain in effect until the ruling is terminated by its own terms or subsequent ruling or is dissolved by a court of competent jurisdiction upon a determination that the

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refusal to renew suspension or revocation was wholly without basis in fact and law.

§ 306. Every practitioner and person registered to manufacture, distribute or dispense controlled substances under this Act shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of the laws of the United States and with any additional rules and forms issued by the Department of Registration and Education.

§ 307. Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to a written order. Compliance with the laws of the United States respecting order forms shall be deemed compliance with this Section.

§ 308. Every practitioner who issues a prescription for a controlled substance in Schedule II shall issue such prescription on official prescription forms which shall be issued by the Department of Law Enforcement except as otherwise provided in this Act. The prescription forms issued by the Department of Law Enforcement shall be in serial numbered groups of 100 forms, each in triplicate, and shall be furnished at the cost of $3.00 per group to such practitioner and such prescription forms shall not be transferable. The prescription forms shall be printed on distinctive paper, serial number of the group being shown on each form and also each form being serially numbered. No more than one such prescription group shall in any case be issued or furnished by the Department to the same prescriber at one time.

§ 309. No person shall issue a prescription for Schedule II controlled substances other than on the official prescription form issued by the Department of Law Enforcement and no person shall fill any such prescription other than on the official prescription form issued by the Department of Law Enforcement; provided that in the case of an epidemic or a sudden or unforeseen accident or calamity, the prescriber may issue a lawful oral prescription or a written prescription on a form other than the official prescription form issued by the Department of Law Enforcement where failure to issue such a prescription might result in loss of life or intense suffering, but such prescription shall have endorsed thereon by the prescriber a statement concerning the accident or calamity, or circumstances constituting the emergency, the cause for which the unofficial form was used. All prescriptions on the official forms shall be written in triplicate and all three copies signed by the prescriber. No prescription for a Schedule II controlled substance may be refilled.

§ 310. The official prescription forms containing the prescriber's copies of official prescriptions issued shall be retained by the prescriber and shall be preserved for 2 years and shall at all times be open to inspection by any officer or employee engaged in the enforcement of this Act. If any official prescription forms are lost or stolen, such loss shall be reported to the local authorities and the Department of Law Enforcement as soon as such loss is discovered.

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§ 311. The original and one copy of the official prescription shall be delivered to the person filling the prescription. The duplicate shall be properly endorsed by the person filling the prescription at the time such prescription is filled, with his own signature and the date of filling. The original official prescription form shall be retained by the person filling the prescription and by the 15th of the month following the month in which the prescription was filled, the duplicate shall be returned to the Department of Law Enforcement.

§ 312. (a) A practitioner, in good faith, may dispense Schedule II controlled substances to any person upon an official prescription form and Schedule III, IV, or V controlled substances to any person upon a written prescription of any practitioner, dated and signed by the person prescribing on the day when issued and bearing the name and address of the patient for whom, or the owner of the animal for which the controlled substance is dispensed, and the full name, address and registry number under the laws of the United States relating to controlled substances of the person prescribing, if he is required by those laws to be registered. If the prescription is for an animal it shall state the species of animal for which it is ordered. The practitioner filling the prescription shall write the date of filling and his own signature on the face of the prescription form. The official prescription form or the written prescription shall be retained on file by the practitioner who filled it or pharmacy in which the prescription was filled for a period of 2 years, so as to be readily accessible for inspection or removal by any officer or employee engaged in the enforcement of this Act. Whenever the practitioner's or pharmacy's copy of any prescription form is removed by an officer or employee engaged in the enforcement of this Act, for the purpose of investigation or as evidence, such officer or employee shall give to the practitioner or pharmacy a receipt in lieu thereof. A written prescription for Schedule III, IV or V controlled substances shall not be filled or refilled more than 6 months after the date thereof or refilled more than 5 times unless renewed, in writing, by the practitioner.

(b) In lieu of a written prescription required by this Section, a pharmacist, in good faith, may dispense Schedule III, IV, or V substances to any person upon a lawful oral prescription of a practitioner which oral prescription shall be reduced promptly to writing by the pharmacist and such written memorandum thereof shall be dated on the day when such oral prescription is received by the pharmacist and shall bear the full name and address of the ultimate user for whom, or of the owner of the animal for which the controlled substance is dispensed, and the full name, address, and registry number under the law of the United States relating to controlled substances of the practitioner prescribing if he is required by those laws to be so registered, and the pharmacist filling such oral prescription shall write the date of filling and his own signature on the face of such written memorandum thereof. The written memorandum of the oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of

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not less than two years, so as to be readily accessible for inspection by any officer or employee engaged in the enforcement of this Act in the same manner as a written prescription. The oral prescription and the written memorandum thereof shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed, in writing, by the practitioner.

(c) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose and not for the purpose of evading this Act, and then:

(1) only personally by a person registered to dispense a Schedule V controlled substance and then only to his patients, or

(2) only personally by a pharmacist, and then only to a person over 21 years of age who has identified himself to the pharmacist by means of 2 positive documents of identification.

(3) the dispenser shall record the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the dispenser's signature.

(4) no person shall be dispensed more than 120 milliliters or more than 120 grams of any Schedule V substance which contains codeine, dihydrocodeine, or any salts thereof, or ethylmorphine, or any salts thereof, in any 96 hour period. The purchaser shall sign a form, approved by the Department of Law Enforcement, attesting that he has not purchased any Schedule V controlled substances within the immediately preceding 96 hours.

(5) a copy of the records of sale, including all information required by paragraph (3), shall be forwarded to the Director by the 15th day of the following month.

(6) all records of purchases and sales shall be maintained for not less than 2 years.

(7) no person shall obtain or attempt to obtain within any consecutive 96 hour period any Schedule V substances of more than 120 milliliters or more than 120 grams containing codeine, dihydrocodeine or any of its salts, or ethylmorphine or any of its salts. Any person obtaining any such preparations or combination of preparations in excess of this limitation shall be in unlawful possession of such controlled substance.

(8) a dispenser registered under this Act shall at no time maintain or keep in stock a quantity of Schedule V controlled substances defined and listed in Section 212 (b) (1), (2) or (3) in excess of 4.5 liters for each substance plus the additional quantity of controlled substances necessary to fill the largest number of prescription orders filled by that dispenser for such controlled substances in any one week in the previous year. These limitations shall not apply to Schedule V controlled substances which Federal law prohibits from being dispensed without a prescription.

(d) The Department of Registration and Education by rule may exempt controlled substances from the necessity of being dispensed by prescription.

(e) Every practitioner shall keep a record of controlled substances received by him and a record of all such controlled substances administered, dispensed or professionally used by him otherwise than by prescription. It shall, however, be a sufficient compliance with this paragraph if any such person using small quantities of solutions or other preparations of such controlled substances shall keep a record of the quantity, character and potency of such solutions or other preparations purchased or made by him, and of the dates when purchased or made by him, without keeping a record of the amount of such solution or other preparation administered or dispensed to individual patients.

(f) Whenever a manufacturer distributes a controlled substance in a package prepared by him, and whenever a wholesale distributor distributes a controlled substance in a package prepared by him or the manufacturer, he shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the manufacturer, the distributor and the quantity, kind and form of controlled substance contained therein. No person except a pharmacist and only for the purposes of filling a prescription under this Act, shall alter, deface or remove any label so affixed.

(g) Whenever a practitioner dispenses any controlled substance, he shall affix to the container in which such substance is sold or dispensed, a label showing his own name, address and registry number; the name and address of the ultimate user; if the user is an animal, the name and address of the owner of the animal and the species of the animal; the name and registry number of the practitioner by whom the written or oral prescription was issued; and such directions as may be stated on the written prescription. No person shall alter, deface or remove any label so affixed.

(h) A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner, or other persons authorized under this Act, and the owner of any animal for which such substance has been prescribed or dispensed by a veterinarian, may lawfully possess such substance only in the container in which it was delivered to him by the person dispensing such substance.

§ 313. Controlled substances which are lawfully administered in hospitals or institutions licensed under the "Hospital Licensing Act" shall be exempt from the requirements of Section 312 except that the prescription for the controlled substance shall be in writing on the patient's record, signed by the prescriber, dated, and shall state the name, and quantity of controlled substances ordered and the quantity actually administered. The records of such prescriptions shall be maintained for two years and shall be available for inspection by officers and employees of the Department of Law Enforcement, and the Department of Registration and Education.

§ 314. Except when a practitioner shall dispense on behalf of a charitable organization as defined in Section 501 (c) of the Federal "Internal Revenue Act", and then in conformance with other provisions of State and

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Federal laws relating to the dispensing of controlled substances, no practitioner shall dispense a controlled substance by use of the United States mails or other commercial carriers.

§ 315. No controlled substance shall be advertised to the public by name.

ARTICLE IV

§ 401. Except as authorized by this Act, it is unlawful for any person knowingly to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance. Any person who violates this Section with respect to:

(a) the following controlled substances and amounts, notwithstanding any of the provisions of subsections (b), (c), (d) or (e) to the contrary, is guilty of an offense and shall upon conviction be imprisoned in the penitentiary for not less than 10 years nor more than life, and fined not more than $200,000:

(1) 30 grams or more of any substance containing heroin;

(2) 30 grams or more of any substance containing cocaine;

(3) 30 grams or more of any substance containing morphine;

(4) 1,000 grams or more of any substance containing peyote;

(5) 200 grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;

(6) 200 grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;

(7) 300 grams or more of any substance containing any of the following substances, their salts, isomers and salts of isomers:

(i) diethyltryptamine (DET);
dimethyltryptamine (DMT)
psilocybin (psilocibin, O-phosphoryl-4-hydroxy-N, N-dimethyltryptamine); or
psilocyn (psilocin, 4-hydroxy-N, N-dimethyltryptamine);

(ii) N-ethyl-3-piperidyl benzilate (JB 318);
N-methvl-3-piperidyl benzilate (JB 336);

(iii) 1-(1-Phenylcyclohexl) - piperidine (Phencyclidine, PCP);

(iv) 3, 4, 5-trimethoxyamphetamine (TMA);
4-methyl, 2, 5-dimethoxyamphetamine (DOM, STP); 3, 4-methylenedioxy-amphetamine (alpha-methyl, 3, 4-methylenedioxyphenethylamine, methylenedioxyamphetamine, MDA); or
3-methoxy-4, 5-methylenedioxyamphetamine (MMDA);

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(v) 3, 4, 5-trimethoxyphenethylamine (mescaline) other than peyote;

(8) 30 grams or more of any substance containing lysergic acid diethylamide (LSD).

(b) any other amount of a controlled substance classified in Schedules I or II which is a narcotic drug is guilty of an offense and upon conviction shall be imprisoned in the penitentiary from one to 20 years, and fined not more than $25,000;

(c) any other amount of a controlled substance classified in Schedule I or II which is not a narcotic drug is guilty of an offense and upon conviction shall be imprisoned in the penitentiary from one to 10 years, and fined not more than $20,000;

(d) any other amount of a controlled substance classified in Schedule III is guilty of an offense and upon conviction shall be imprisoned in the penitentiary from one to 8 years, and fined not more than $15,000;

(e) any other amount of a controlled substance classified in Schedule IV is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than one year or in the penitentiary from one to 3 years, and fined not more than $10,000;

(f) any other amount of a controlled substance classified in Schedule V is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than one year or in the penitentiary from one to 3 years, and fined not more than $5,000.

§ 402. Except as otherwise authorized by this Act, it is unlawful for any person knowingly to possess a controlled substance. Any person who violates this Section with respect to:

(a) the following controlled substances and amounts, notwithstanding any of the provisions of subsections (b) or (c) to the contrary, is guilty of an offense and shall be imprisoned in the penitentiary for not less than 3 years nor more than life, and fined not more than $100,000:

(1) 30 grams or more of any substance containing heroin;

(2) 30 grams or more of any substance containing cocaine;

(3) 30 grams or more of any substance containing morphine;

(4) 1,000 grams or more of any substance containing peyote;

(5) 200 grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;

(6) 200 grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;

(7) 300 grams or more of any substance containing any of the following substances, their salts, isomers and salts of isomers:

(i) diethyltryptamine (DET);
dimethyltryptamine (DMT);
psilocybin (psilocibin,
O-phosphoryl-4-hydroxy-N,
N-dimethyltryptamine); or

(ii) N-ethyl-3-piperidyl benzilate (JB 318); or
N-methyl-3-piperidyl benzilate (JB 336);

(iii) 1-(1-Phenylcyclohexl) - piperidine (Phencyclidine, PCP);

(iv) 3, 4, 5-trimethoxyamphetamine (TMA); 4-methyl, 2, 5-dimethoxyamphetamine (DOM, STP); 3, 4-methylenedioxyamphetamine (alpha-methyl, 3, 4-methylenedioxy-phenethylamine, methylenedioxy-amphetamine, MDA); or 3-methoxy-4, 5-methylenedioxyamphetamine (MMDA);

(v) 3, 4, 5-trimethoxyphenethylamine (mescaline) other than peyote;

(8) 30 grams or more of any substance containing lysergic acid diethylamide (LSD).

(b) any other amount of a controlled substance is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than one year or in the penitentiary from one to 8 years, and fined not more than $15,000.

§ 403. Except as authorized by this Act, it is unlawful for any person knowingly to manufacture or deliver a counterfeit substance. Any person who violates this section with respect to:

(a) a counterfeit substance classified in Schedule I or II, which is a narcotic drug, is guilty of an offense and upon conviction shall be imprisoned in the penitentiary from 1 to 12 years and fined not more than $25,000;

(b) any other counterfeit substance classified in Schedules I or II, is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than 1 year or in the penitentiary from 1 to 8 years, and fined not more than $20,000;

(c) a counterfeit substance classified in Schedule III, is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than 1 year or in the penitentiary from 1 to 5 years and fined not more than $15,000;

(d) a counterfeit substance classified in Schedule IV, is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than 1 year or in the penitentiary from 1 to 3 years, and fined not more than $10,000;

(e) a counterfeit substance classified in Schedule V, is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than 1 year, and fined not more than $5,000.

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§ 404. Except as authorized by this Act, it is unlawful for any person knowingly to deliver or possess with intent to deliver any substance which he represents to be a controlled substance. Any person who violates this Section is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than one year or in the penitentiary from one to 10 years, and fined not more than $15,000.

§ 405. (a) Any person who engages in a calculated criminal drug conspiracy, as defined in subsection (b), is guilty of an offense and upon conviction shall be imprisoned in the penitentiary for not less than 10 years nor more than life, and fined not more than $200,000, and shall be subject to the forfeitures prescribed in subsection (c).

(b) For purposes of this section, a person engages in a calculated criminal drug conspiracy when:

(1) he violates any of the provisions of subsections (a) or (b) of Section 401 or subsection (a) of Section 402; and

(2) such violation is a part of a conspiracy undertaken or carried on with two or more other persons; and

(3) he obtains anything of value greater than $500 from, or organizes, directs or finances such violation or conspiracy.

(c) Any person who is convicted under this section of engaging in a calculated criminal drug conspiracy shall forfeit to the State of Illinois:

(1) the receipts obtained by him in such conspiracy; and

(2) any of his interests in, claims against, receipts from, or property or rights of any kind affording a source of influence over, such conspiracy.

(d) Any court shall have jurisdiction to enter such injunctions, restraining orders, directions or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property, claim, receipt, right or other interest subject to forfeiture under this section, as it deems proper.

§ 406. (a) It is unlawful for any person:

(1) who is subject to Article III knowingly to distribute or dispense a controlled substance in violation of Sections 308 through 314 of this Act; or

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

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

(4) to refuse an entry into any premises for any inspection authorized by this Act; or

(5) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by a person unlawfully possessing controlled substances, or which is used for possessing, manufacturing, dispensing or distributing controlled substances in violation of this Act.

Any person who violates this subsection (a) is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than one year or in the penitentiary from one to 3 years, and fined not more than $10,000.

(b) It is unlawful for any person knowingly:

(1) to distribute, as a registrant, a controlled substance classified in Schedule I or II, except pursuant to an order form as required by Section 307 of this Act; or

(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; or

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

(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 controlled substance or container or labeling thereof so as to render the drug a counterfeit substance; or

(6) to possess without authorization, official blank prescription forms or counterfeit prescription forms; or

(7) to issue a prescription or fill any prescription for a controlled substance other than on the appropriate lawful prescription form. However, in the case of any epidemic or a sudden or unforeseen accident or calamity, the prescriber may issue a prescription on a form other than the official prescription form issued by the Department, where failure to issue such a prescription might result in loss of life or intense suffering, but such prescription shall have endorsed thereon, by the prescriber, a statement concerning the accident, calamity or circumstance constituting the emergency, the cause of which the unofficial blank was used.

Any person who violates this subsection (b) is guilty of an offense and upon conviction shall be imprisoned in a penal institution other than the penitentiary for not more than one year or in the penitentiary from one to 3 years, and fined not more than $30,000.

§ 407. Any person 18 years of age or over who violates any subsection of section 401 by delivering a controlled substance to a person under 18 years of age who is at least two years his junior is punishable by a sentence up to twice the maximum otherwise authorized by the pertinent subsection of section 401.

§ 408. (a) Any person convicted of a second or subsequent offense under this Act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

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(b) For purposes of this Section, 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 law of the United States or of any State relating to controlled substances.

§ 409. A conviction or acquittal, under the laws of the United States or of any State relating to controlled substances, for the same act is a bar to prosecution in this State.

§ 410. Whenever any person who has not previously been convicted under any law of the United States or of any State relating to controlled substances, pleads guilty to or is found guilty of possession of a controlled substance under Section 402 (b), the court, without entering a judgment of conviction and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions which may include treatment or rehabilitation approved by the Department of Mental Health. Upon violation of a term or condition, the court may enter a judgment of conviction 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 is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only one discharge and dismissal under this Section with respect to any person.

§ 411. In determining the appropriate sentence for any conviction under this Act, the sentencing court may consider the following as indicative of the type of offenses which the legislature deems most damaging to the peace and welfare of the citizens of Illinois and which warrants the most severe penalties:

(1) the unlawful delivery of the most highly toxic controlled substances, as reflected by their inclusion in Schedule I or II of this Act;

(2) offenses involving unusually large quantities of controlled substances, as measured by their wholesale value at the time of the offense;

(3) the unlawful delivery of controlled substances by a non-user to a user of controlled substances;

(4) non-possessory offenses by persons who have no other visible means of support;

(5) offenses involving the large-scale manufacture of controlled substances;

(6) offenses which indicate any immediate involvement whatsoever with organized crime in terms of the controlled substance's manufacture, importation, or volume distribution;

(7) the manufacture for, or the delivery of controlled substances to persons 3 years or more junior to the person(s) convicted under this Act.

Nothing in this section shall be construed as limiting in any way the discretion of the court to impose any sentence authorized by this Act.

§ 412. Any penalty imposed for any violation of this Act is in addi-

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tion to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by this Act or any other law.

ARTICLE V

§ 501. It is hereby made the duty of the Department, its agents, officers, investigators, and of all peace officers of this State to enforce all provisions of this Act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, or of any State, relating to controlled substances. Any agent, officer, investigator or peace officer designated by the Director may (a) execute and serve administrative inspection warrants, subpoenas, and summonses under the authority of this State; (b) make seizures of property pursuant to the provisions of this Act; and (c) perform such other law enforcement duties as the Director may designate. It is hereby made the duty of all State's Attorneys to prosecute violations of this Act and institute legal proceedings as authorized under this Act.

§ 502. (a) Issuance and execution of administrative inspection warrants shall be as follows:

(1) a judge of a circuit court, within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this Act or rules hereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this Act or rules hereunder, sufficient to justify administrative inspection of the controlled premises, as defined in subsection (b), specified in the application for the warrant.

(2) an inspection warrant shall issue only upon an affidavit of any person having knowledge of the facts alleged, sworn to before the circuit judge and establishing the grounds for issuing the inspection warrant. If the circuit judge is satisfied that there is probable cause to believe that grounds for issuance of an inspection warrant exist, he shall issue an inspection warrant identifying the controlled premises to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected or seized, if any. The inspection warrant shall:

(i) state the ground for its issuance and the name of each person whose affidavit has been taken in support thereof;

(ii) be directed to a person authorized by Section 501 to execute it;

(iii) command the person to whom it is directed to inspect the controlled premises identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(iv) identify the item or types of property to be seized, if any;

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(v) direct that it be served at any time of the day or night and designate the circuit court judge to whom it shall be returned.

(3) An inspection warrant issued pursuant to this Section must be executed and returned within 10 days of its date of issuance unless, upon a showing of a need for additional time, the court which issued the inspection warrant orders otherwise. If property is seized pursuant to an inspection warrant, a copy of the inventory of such seized property shall be given to the person from whom or from whose controlled premises the property is taken. If no person is available, the inspection warrant and a copy of the inventory shall be left at such controlled premises. The inventory shall be made under oath by the person executing the warrant.

(4) an inspection warrant shall be returnable before the judge of the circuit court who issued the inspection warrant or any judge named in the inspection warrant or before any court of competent jurisdiction. The judge before whom the return is made shall attach to the inspection warrant a copy of the return and all papers returnable in connection therewith and file them with the clerk of the circuit court in which the inspection warrant was executed.

(5) no warrant shall be quashed nor evidence suppressed because of technical irregularities not affecting the substantial rights of the person responsible for the controlled premises.

(b) The Director may make inspections of controlled premises in accordance with the following provisions:

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

(i) places where persons registered or exempted from registration requirements under this Act keep records required under this Act; and

(ii) places, including but not limited to, areas, buildings, premises, factories, warehouses, establishments and conveyances in which persons registered or exempted from registration requirements under this Act are permitted to possess, manufacture, distribute, dispense, administer, or otherwise dispose of any controlled substance.

(2) When authorized by an inspection warrant issued pursuant to this Act, any agent designated by the Director or any peace officer, upon presenting the inspection warrant to the person designated in the inspection warrant or any other person on the controlled premises, may enter controlled premises for the purpose of conducting the inspection.

(3) When authorized by an inspection warrant any agent designated by the Director may execute the inspection warrant in accordance with its terms.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in

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accordance with "The Civil Administrative Code of Illinois," nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(i) if the person in charge of the controlled premises consents; or

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

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

(iv) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(5) An inspection warrant authorized by this Section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the person in charge of the controlled premises consents in writing, provided, however, that records required to be kept under this Act are not included in such financial data, sales data or pricing data.

§ 503. In addition to any other remedies the Director is authorized to apply to any circuit court for, and such circuit court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, without bond, restraining any person from violating any provision of this Act whether or not there exists an adequate remedy at law.

§ 504. (a) The Director shall cooperate with Federal and other State agencies in discharging his responsibilities concerning traffic in controlled substances and in suppressing the misuse and abuse of controlled substances. To this end he may:

(1) arrange for the exchange of information among governmental officials concerning the use, misuse and abuse of controlled substances;

(2) coordinate and cooperate in training programs concerning controlled substance law enforcement at local and State levels;

(3) cooperate with the Bureau; and

(4) conduct programs of eradication aimed at destroying wild illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the Bureau relating to the regulatory functions of this Act, including results of inspections conducted by it may be relied and acted upon by the Director in the exercise of his regulatory functions under this Act.

§ 505. (a) The following are subject to forfeiture:

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

(2) all raw materials, products and equipment of any kind which are manufactured, distributed, dispensed, administered or possessed in connection with any controlled substance in violation of this Act;

(3) all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facili-

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tate the transportation, for the purpose of delivery of property described in paragraph (1) or (2), but:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this Section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Act;

(ii) no conveyance is subject to forfeiture under this Section by reason of any act or omission which the owner proves to have been committed or omitted without his knowledge or consent;

(iii) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

(4) all money, things of value, 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 Director or any peace officer upon process issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

(1) If the seizure is incident to inspection under an administrative inspection warrant;

(2) If 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) If there is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) In accordance with the Code of Criminal Procedure of 1963, as amended.

(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 Director subject only to the order and decrees of the circuit court having jurisdiction over the forfeiture proceedings. When property is seized under this Act, the Director may:

(1) place the property under seal; or

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

(3) require the sheriff of the county in which the seizure occurs to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(e) If the Department of Registration and Education 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 time for taking an appeal has elapsed or until all ap-

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peals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation rule becoming final, all controlled substances may be forfeited to the Department.

(f) When property is forfeited under this Act the Director may:

(1) retain it for official use; or

(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 and the balance, if any, shall be paid to the State of Illinois; or

(3) require the sheriff of the county in which the forfeiture occurs to take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau for disposition.

(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. The failure, upon demand by the Director or any peace officer, 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 registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

§ 506. It is not necessary for the State to negate any exemption or exception in this Act in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this Act. The burden of proof of any exemption or exception is upon the person claiming it.

§ 507. All rulings, final determinations, findings, and conclusions of the Department of Law Enforcement, the Department of Registration and Education and the Department of Mental Health under this Act are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision pursuant to the provisions of the "Administrative Review Act," approved May 8, 1945, as amended and the rules adopted pursuant thereto.

§ 508. The Department of Mental Health shall encourage research on controlled substances. In connection with the research, and in furtherance of the purposes of this Act, the Department of Mental Health may:

(1) establish methods to assess accurately the effect of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

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

(ii) determine patterns of use, misuse, and abuse of controlled substances and their social effects; and

(iii) improve methods for preventing, predicting, understanding, and dealing with the use, misuse and abuse of controlled substances; and

(3) enter into contracts with public agencies, educational institutions, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which relate to the use, misuse and abuse of controlled substances.

(b) Persons authorized to engage in research may be authorized by the Department of Mental Health to protect the privacy of individuals who are the subjects of such research by withholding from all persons not connected with the conduct of the research the names and other identifying characteristics of such individuals. Persons who are given this authorization shall not be 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 granted, except to the extent necessary to permit the Department of Mental Health to determine whether the research is being conducted in accordance with the authorization.

(c) The Department of Mental Health, with the approval of the Department of Law Enforcement, may authorize the possession and dispensing of controlled substances by persons engaged in research, upon such terms and conditions as may be consistent with the public health and safety. The Department of Mental Health may also approve research and treatment programs involving the administration of Methadone. The use of Methadone, or any similar controlled substance by any person is prohibited in this State except as approved and authorized by the Department of Mental Health in accordance with its rules and regulations. To the extent of the applicable authorization, persons are exempt from prosecution in this State for possession, manufacture or delivery of controlled substances.

(d) Practitioners registered under Federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this State upon furnishing evidence of that Federal registration.

§ 509. Whenever any court in this State grants probation to any person that the court has reason to believe is or has been an addict or unlawful possessor of controlled substances, the court shall require, as a condition of probation, that the probationer submit to periodic tests by the Department of Corrections to determine by means of appropriate chemical detection tests whether the probationer is using controlled substances. The court may require as a condition of probation that the probationer enter an approved treatment program, if the court determines that the probationer is addicted to a controlled substance. Whenever the Parole and Pardon Board grants parole to a person whom the Board has reason to believe has been an unlawful possessor or addict of controlled substances, the Board shall require as a condition of parole that the parolee submit to appropriate periodic chemical

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tests by the Department of Corrections to determine whether the parolee is using controlled substances.

ARTICLE VI

§ 601. Prosecution for any violation of law occurring prior to the effective date of this Act is not affected or abated by this Act. If the offense being prosecuted would be a violation of this Act, and has not reached the sentencing stage or final adjudication, then for purposes of penalty the penalties under this Act apply if they are less than under the prior law upon which the prosecution was commenced.

§ 602. If any provision of this Act or the application thereof to any person or circumstance is invalid, such invalidation shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 603. The following Acts and parts of Acts are repealed:

(a) The "Uniform Narcotic Drug Act," approved July 11, 1957, as amended.

(b) The "Drug Abuse Control Act," approved August 17, 1967, as amended.

(c) "An Act to amend Sections 2-15, 41 (a) and 43 of, and to add Sections 43.1, 43.2, 43.3, 43.4, 43.5, 43.6 and 43.7 to the "Uniform Drug, Device and Cosmetic Act", approved July 9, 1959, as amended," approved August 11, 1967, as amended.

(d) "An Act to amend Section 46 of the "Uniform Drug, Device and Cosmetic Act", approved July 9, 1959, as amended", approved August 18, 1967, as amended.

Passed in the General Assembly June 30, 1971.

Approved August 16, 1971.

(I.R.S. Chap. 38, Rep. Par. 22-1 through 22-49.1.)

PUBLIC ACT 77-758.

FOODS.

CANNABIS CONTROL ACT—CREATES.

(House Bill No. 788. Approved August 16, 1971.)

AN ACT to establish a regulatory system for the production, distribution and possession of marihuana.

Be it enacted by the People of the State of Illinois, represented in the General Assembly: