

**OKLAHOMA
SESSION LAWS
1971**

THIRTY-THIRD LEGISLATURE

FIRST REGULAR SESSION

Convened January 5, 1971

Adjourned Sine Die June 11, 1971

EXTRAORDINARY SESSION

Convened July 1, 1971

Adjourned Sine Die July 1, 1971

DAVID HALL, GOVERNOR

FINIS W. SMITH, President Pro Tempore of the Senate
REX PRIVETT, Speaker of the House of Representatives

ST. PAUL, MINN.

WEST PUBLISHING CO.

1971

Senate,
tives, of
Resolu-
of the
Session
which
Session
ich are
of State.
olutions
ergency
passage
ressly
tained
cy sec-
d after
unless
herein.
of the
1, and
1971.
lahoma
th day

UNIFORM CONTROLLED DANGEROUS
SUBSTANCES ACTCHAPTER 119⁵⁴

H.B.No.1100

AN ACT RELATING TO NARCOTIC DRUGS AND DANGEROUS SUBSTANCES; ENACTING THE "UNIFORM CONTROLLED DANGEROUS SUBSTANCES ACT"; DEFINING TERMS; ESTABLISHING THE OFFICE OF THE COMMISSIONER OF NARCOTICS AND DANGEROUS DRUGS CONTROL AND AN ADVISORY BOARD TO THE COMMISSIONER; PROVIDING STANDARDS AND SCHEDULES OF CONTROLLED SUBSTANCES; REGULATING THE MANUFACTURING, DISTRIBUTING, DISPENSING, PRESCRIBING, ADMINISTERING, AND USING FOR SCIENTIFIC PURPOSES OF CONTROLLED DANGEROUS SUBSTANCES; PROVIDING OFFENSES AND PENALTIES; PROVIDING FOR ENFORCEMENT AND ADMINISTRATION OF THE ACT; PROVIDING CERTAIN PROVISIONS RELATING TO PENDING PROCEEDINGS AND REGULATIONS; PROVIDING FOR UNIFORMITY OF INTERPRETATION; PROVIDING A SHORT TITLE; DIRECTING CODIFICATION; PROVIDING FOR SEVERABILITY; REPEALING CHAPTER 10, TITLE 63, O.S.1961, AS AMENDED, AND 21 O.S.1961, § 1725; EFFECT OF HEADINGS; PROVIDING AN OPERATIVE DATE FOR CERTAIN PROVISIONS; AND DECLARING AN EMERGENCY.

Be it enacted by the People of the State of Oklahoma:

ARTICLE I. DEFINITIONS; COMMISSIONER OF NARCOTICS
AND DANGEROUS DRUGS CONTROL; ADVISORY BOARD

SECTION 2—101. Definitions

As used in this act:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient, animal, or research subject by:
 - a. a practitioner (or, in his presence, by his authorized agent), or
 - b. the patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouseman, or employee thereof, or a person required to register under this act.
3. "Board" means the Advisory Board to the Commissioner of Narcotics and Dangerous Drugs Control.
4. "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice.

⁵⁴ 63 O.S.1971, §§ 2—101 to 2—107, 2—201 to 2—212, 2—301 to 2—314, 2—401 to 2—413, 2—501 to 2—511, 2—601 to 2—610.

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine.

6. "Commissioner" means the Commissioner of Narcotics and Dangerous Drugs Control.

7. "Control" means to add, remove, or change the placement of a drug, substance or immediate precursor under Article II of this act.

8. "Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II of this act.

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying marks, 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.

10. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship.

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject.

12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.

13. "Distributor" means a person who distributes.

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

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

16. "Immediate precursor" means a substance which the Commissioner has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

17. "Laboratory" means a laboratory approved by the Commissioner as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction.

18. "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled dangerous substance, either

directly or indirectly or independently by extraction and chemical processes, whether growing or otherwise, who packages, repackages, or otherwise prepares dangerous substances for prescription orders for

19. "Marihuana" means the plant whether growing or otherwise, any part of such plant, whether growing or otherwise, any mixture, or preparation, not including the mature stalks, oil or cake made from the stalks, or any other part of the plant (except the sterile seed of the plant)

20. "Medical purpose" means the use of a controlled dangerous substance for the prevention or treatment of a disease or for the prevention of psychological dependence

21. "Narcotic drug" means a drug which is directly or indirectly derived from the opium poppy or independently by chemical processes of extraction and chemical

a. opium, cocaine

b. a compound of opium, cocaine

c. a substance or preparation of any of the foregoing which includes or which is derived from

22. "Opiate" means a drug which is directly or indirectly derived from the opium poppy or independently by chemical processes of extraction and chemical processes, whether growing or otherwise, who packages, repackages, or otherwise prepares dangerous substances for prescription orders for

23. "Opium poppy" means the plant whether growing or otherwise, any part of such plant, whether growing or otherwise, any mixture, or preparation, not including the mature stalks, oil or cake made from the stalks, or any other part of the plant (except the sterile seed of the plant)

24. "Peace officer" means a person who is authorized by law to enforce the laws of this State

25. "Person" means an individual, partnership, firm, association, or any other legal entity

26. "Poppy straw" means the residue left after mowing the opium poppy

27. "Practitioner" means a person who is licensed, certified, or otherwise authorized to practice a profession

a. a physician, nurse, pharmacist, or other person who is permitted to practice a profession in respect to

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

19. "Marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

20. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, diagnosis, or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse.

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

- a. opium, coca leaves, and opiates;
- b. a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
- c. a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses a. and b., except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

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

23. "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

24. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States.

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

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

27. "Practitioner" means:

- a. a physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a con-

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

trolled dangerous substance in the course of professional practice or research in this state; or

- b. a pharmacy, hospital, laboratory or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state.

28. "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

29. "State" means the State of Oklahoma or any other state of the United States.

30. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

SECTION 2—102. Commissioner of Narcotics and Dangerous Drugs Control

There is hereby established in the office of the Attorney General the office of the Commissioner of Narcotics and Dangerous Drugs Control.

SECTION 2—103. Appointment and organization of office of Commissioner

The Commissioner shall be appointed by and serve at the pleasure of the Attorney General. The Attorney General shall fix the compensation of the Commissioner. The Commissioner may appoint necessary assistants, and other personnel, to carry out the work of the office and may prescribe their titles and duties and fix their compensation. The office of the Commissioner shall be located at a suitable place in Oklahoma City, Oklahoma.

SECTION 2—104. Advisory Board

There is hereby established an Advisory Board to the Commissioner of Narcotics and Dangerous Drugs Control for the purpose of assisting and advising the Commissioner in carrying out the functions of his office. Members of the Board shall receive no compensation for their services. The Board shall be composed ex officio of the following ten (10) members or their designees: the Attorney General who shall serve as Chairman of the Board, the State Commissioner of Health, the Director of Mental Health, the Superintendent of Public Instruction, the Director of the State Bureau of Investigation, the Executive Secretary of the Board of Pharmacy, the Executive Vice President of the University of Oklahoma Medical Center, the Director of the Department of Public Welfare, the Director of the Department of Corrections, and the State Medical Examiner.

SECTION 2—105. Duty of state departments, officers, agencies, and employees

It shall be the duty of all departments, officers, agencies, and employees of the state to cooperate with the Commissioner in carrying out the functions of his office. The Attorney General shall furnish such legal services as are necessary to the office of the Commissioner.

SECTION 2—106. Powers and duties of Commissioner.

A. The Commissioner shall, in addition to other powers and duties vested in him:

1. Cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in narcotics and dangerous substances and in suppressing the abuse of dangerous substances;

FIRST R

2. Arrange for the execution of this act by the officials concerning the use of dangerous substances.

3. Coordinate and cooperate with the law enforcement agencies in the enforcement of this act.

4. Cooperate with the agencies in the establishment of a centralized system for the collection and dissemination of statistics, including the collection and dissemination of information concerning dangerous substance law enforcement; and may collect and disseminate such information as may be necessary for the purposes; and may collect and disseminate such information as may be necessary for the purposes;

5. Coordinate and cooperate with the agencies in the destruction of wild or illicit dangerous substances and in the control of dangerous substances.

B. Results, information, and data developed under this act, including results of research, shall be relied upon and acted upon by the regulatory functions of the agencies.

C. The Commissioner shall:

1. Coordinate and cooperate with the agencies to prevent and deter misuse of dangerous substances.

2. Promote better regulation of controlled dangerous substances among interested groups and individuals.

3. Assist the regulated agencies in contributing to the reduction of dangerous substances;

4. Consult with interested agencies in solving administrative and regulatory problems.

5. Assist in evaluating the results of research conducted or proposed as to the causes and abuse of controlled dangerous substances.

6. Disseminate the results of research on controlled dangerous substances and on what problems exist and how they may be solved.

7. Assist in the education of law enforcement officials in their enforcement of laws concerning dangerous substances.

D. The Commissioner shall:

1. Encourage research on dangerous substances;

2. Cooperate in the establishment of a system of controlled dangerous substances and in the control of dangerous substances.

3. Cooperate in making research to:

a. develop new methods of detection, equipment and procedures under this act;

b. determine patterns of dangerous substances;

c. improve methods of detection and dealing with dangerous substances.

2. Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;

3. Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and state levels;

4. Cooperate with the Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit which will accept, catalogue, file and collect statistics, including records of drug dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes; and may collect and furnish statistics for other appropriate purposes;

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

B. Results, information, and evidence received from the Bureau of Narcotics and Dangerous Drugs relating to the regulatory functions of this act, including results of inspections conducted by that agency, may be relied upon and acted upon by the Commissioner in conformance with his regulatory functions under this act.

C. The Commissioner is further authorized and directed to:

1. Coordinate and cooperate in educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances;

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

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

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

5. Assist in evaluating procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances;

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

7. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances.

D. The Commissioner is further authorized and directed to:

1. Encourage research on misuse and abuse of controlled dangerous substances;

2. Cooperate in establishing methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse;

3. Cooperate in making studies and in undertaking programs of research to

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

b. determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof; and

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

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

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

F. The Commissioner may enter into contracts for educational and research activities without performance bonds.

G. The Commissioner may authorize persons engaged in research or scientific activities on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

H. The Commissioner may authorize the lawful possession, distribution and use of controlled dangerous substances by persons engaged in research or scientific activities; authorization for possession of controlled dangerous substances may be extended to persons engaged in a program of drug education or persons in the performance of an official duty. Persons who obtain this authorization shall be exempt from state prosecution for possession, distribution, or use of dangerous substances to the extent authorized by the Commissioner.

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

J. The Commissioner shall be in charge of all monies appropriated for or deposited to the credit of the office of the Commissioner and is authorized to approve claims and payrolls as provided in Section 41.26 of Title 62 of the Oklahoma Statutes.

K. The Commissioner shall have the authority of a peace officer and is authorized to commission assistants of his office as peace officers.

SECTION 2—107. Revolving Fund

There is hereby created in the State Treasury a Revolving Fund for the office of the Commissioner of Narcotics and Dangerous Drugs Control which shall consist of any monies received from gifts, bequests, devises, contributions or grants, public or private, including federal funds, registration fees and receipts relating to prescription pads and receipts from any other source. The Revolving Fund herein created may be expended for the same purposes and in the same manner as appropriated funds.

ARTICLE II. STANDARDS AND SCHEDULES

SECTION 2—201. Authority to control—Recommendations

A. The Commissioner shall administer the provisions of this act except as otherwise provided.

B. The Board of Pharmacy by rule may classify new products determined to have a potential for abuse as controlled dangerous substances after notice and hearing; provided that such rule shall be submitted to the next regular session of the Legislature, and such rule shall remain in force and effect unless a concurrent resolution of disapproval is passed. Hearings shall be conducted by the Board of Pharmacy or such officers, agents or employees as the Board of Pharmacy may designate for the purpose. The Board of Pharmacy shall give appropriate notice of the proposed classification and of the time and place for a hearing. The rule so promulgated shall become effective on a date fixed by the Board of Pharmacy. Such rule may be amended or repealed in the same manner

as provided for its adoption. Provisions shall be governed by the Administrative Code Act, and shall be controlled pursuant to the same regulatory provisions of the Administrative Code Act as the substances to which it is classified.

C. The Commissioner may require the removal, deletion or rescheduling of a substance.

D. In considering whether to issue an order under this section, the Commissioner, as the case may be, shall consider:

1. Its actual or relative potential for abuse.
2. Scientific evidence of its potential for abuse.
3. State of current scientific knowledge.
4. Its history and current pattern of abuse.
5. The scope, duration, and severity of abuse.
6. What, if any, risk there is to public health.
7. Its psychic or physiological effects.
8. Whether the substance is a new compound of a substance already controlled.

E. Substances which are precursors shall not be subject to control solely because they are controlled precursors.

F. In addition to the filing requirements of the Administrative Code Act, copies of orders issued by the Commissioner at the time the Legislature is not in session shall be filed with the Vice Chairman of the State Legislature.

G. The Board of Pharmacy shall not issue a license to practice pharmacy from a schedule if such substance is controlled under the Narcotic and Cosmetic Act and the law without a prescription.

SECTION 2—202. Nomenclature

The Schedules provided by this act shall list the usual name, chemical name, or other name of each substance listed or to be listed.

SECTION 2—203. Schedule I

Schedule I includes substances which:

1. High potential for abuse.
2. No accepted medical use in the United States.
3. Safety for use in treatment and diagnosis is unknown.

SECTION 2—204. Schedule II

The controlled substances listed in Schedule II are:

A. Any of the following or their salts, and salts of isomers, esters, or other derivatives, whenever the existence of the substance is within the specific chemical structure:

1. Acetylmethadol.
2. Allylprodine.
3. Alphacetylmethadol.
4. Alphameprodine.
5. Alphamethadol.

as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act. A new substance controlled pursuant to this subsection shall be subject to the same regulatory provisions of this act applicable to the Schedule of substances to which it is classified.

C. The Commissioner may recommend to the Legislature the addition, deletion or rescheduling of a substance.

D. In considering whether to make a recommendation or issue an order under this section, the Commissioner or the Board of Pharmacy, as the case may be, shall consider the following:

1. Its actual or relative potential for abuse;
2. Scientific evidence of its pharmacological effect, if known;
3. State of current scientific knowledge regarding the substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or physiological dependence liability; and
8. Whether the substance is an immediate precursor or principal compound of a substance already controlled under this article.

E. Substances which are precursors of a controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

F. In addition to the filing requirements of the Administrative Procedures Act, copies of orders issued under this section shall, during the time the Legislature is not in session, be filed with the Chairman and Vice Chairman of the State Legislative Council's Judiciary Committee.

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

SECTION 2—202. Nomenclature in Schedules

The Schedules provided by this act include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

SECTION 2—203. Schedule I characteristics

Schedule I includes substances with the following characteristics:

1. High potential for abuse;
2. No accepted medical use in the United States or lacks accepted safety for use in treatment under medical supervision.

SECTION 2—204. Schedule I

The controlled substances listed in this section are included in Schedule I.

A. 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.
2. Allylprodine.
3. Alphacetylmethadol.
4. Alphameprodine.
5. Alphamethadol.

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

B. 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. Acetorphine.
2. Acetyldihydrocodeine.
3. Benzylmorphine.
4. Codeine methylbromide.
5. Codeine-N-Oxide.
6. Cyprenorphine.
7. Desomorphine

8. Dihydromorphine.
9. Etorphine.
10. Heroin.
11. Hydromorphanol.
12. Methyl-desorphine.
13. Methylhydromorphine.
14. Morphine methylbromide.
15. Morphine methylsulfonate.
16. Morphine-N-Oxide.
17. Myrophine.
18. Nicocodeine.
19. Nicomorphine.
20. Normorphine.
21. Phoclodine.
22. Thebacon.

C. Any material, compound, mixture or any quantity of the following hallucinatory substances, 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-methylenedioxy amphetamine.
2. 5-methoxy-3, 4-methylenedioxy amphetamine.
3. 3, 4, 5-trimethoxy amphetamine.
4. Bufotenine.
5. Diethyltryptamine.
6. Dimethyltryptamine.
7. 4-methyl-2, 5-dimethoxyamphetamine.
8. Ibogaine.
9. Lysergic acid diethylamide.
10. Marihuana.
11. Mescaline.
12. N-ethyl-3-piperidyl benzilate.
13. N-methyl-3-piperidyl benzilate.
14. Psilocybin.
15. Psilocyn.
16. Tetrahydrocannabinols.

SECTION 2—205. Schedule II characterizes the controlled substances listed in Schedule II includes substances with the following characteristics:

1. High potential for abuse;
2. Currently accepted medical use in the United States or a currently accepted medical use with severe restrictions;
3. The abuse of the substance may lead to the development of a physical dependence.

SECTION 2—206. Schedule II characterizes the controlled substances listed in Schedule II.

The controlled substances listed in Schedule II.

A. Any of the following substances or their salts, isomers and salts of isomers, whether produced synthetically or extracted from substances of vegetable origin:

8. Dihydromorphine.
9. Etorphine.
10. Heroin.
11. Hydromorphenol.
12. Methyldesorphine.
13. Methylhydromorphine.
14. Morphine methylbromide.
15. Morphine methylsulfonate.
16. Morphine-N-Oxide.
17. Myrophine.
18. Nicocodeine.
19. Nicomorphine.
20. Normorphine.
21. Phocloidine.
22. Thebacon.

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

1. 3, 4-methylenedioxy amphetamine.
2. 5-methoxy-3, 4-methylenedioxy amphetamine.
3. 3, 4, 5-trimethoxy amphetamine.
4. Bufotenine.
5. Diethyltryptamine.
6. Dimethyltryptamine.
7. 4-methyl-2, 5-dimethoxyamphetamine.
8. Ibogaine.
9. Lysergic acid diethylamide.
10. Marihuana.
11. Mescaline.
12. N-ethyl-3-piperidyl benzilate.
13. N-methyl-3-piperidyl benzilate.
14. Psilocybin.
15. Psilocyn.
16. Tetrahydrocannabinols.

SECTION 2—205. Schedule II characteristics

Schedule II includes substances with the following characteristics:

1. High potential for abuse;
2. Currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and
3. The abuse of the substance may lead to severe psychic or physical dependence.

SECTION 2—206. Schedule II

The controlled substances listed in this section are included in Schedule II.

A. 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

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

chemical synthesis, or by combination of extraction and chemical synthesis:

1. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

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

3. Opium poppy and poppy straw.

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

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

C. Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

SECTION 2—207. Schedule III characteristics

Schedule III includes substances with the following characteristics:

1. A potential for abuse less than the substances listed in Schedules I and II;
2. Currently accepted medical use in treatment in the United States; and

FIRST REGULATIONS

3. Abuse may lead to moderate psychological dependence.

SECTION 2—208. Schedule III

The controlled substances listed in III.

A. Any material, compound, mixture, or preparation which contains any quantity of the following substances which have a potential for abuse associated with the nervous system:

1. Amphetamine, its salts, optical isomers.
2. Phenmetrazine and its salts.
3. Methylphenidate.

B. Unless listed in another schedule, or preparation which contains any quantity of the following substances or any other substance having a depressant effect on the central nervous system:

1. Any substance which contains barbituric acid, or any salt of a derivative thereof.
2. Chlorhexadol.
3. Glutethimide.
4. Lysergic acid.
5. Lysergic acid amide.
6. Methyprylon.
7. Phencyclidine.
8. Sulfondiethylmethane.
9. Sulfonethylmethane.
10. Sulfonmethane.

C. Nalorphine.

D. Any material, compound, mixture, or preparation which contains limited quantities of any of the following substances:

1. Not more than 1.8 grams of opium or not more than 90 milliliters or greater quantity of an isoquinoline alkaloid.
2. Not more than 1.8 grams of opium or not more than 90 milliliters or more active, nonnarcotic ingredients in any dosage form.
3. Not more than 300 milligrams of opium salts, per 100 milliliters or not more than 300 milligrams of opium unit, with a fourfold or greater quantity of opium;
4. Not more than 300 milligrams of opium salts, per 100 milliliters or not more than 300 milligrams of opium with one or more active, nonnarcotic ingredients;
5. Not more than 1.8 grams of opium or not more than 90 milliliters or more active, nonnarcotic ingredients in any dosage form.

3. Abuse may lead to moderate or low physical dependence or high psychological dependence.

SECTION 2—208. Schedule III

The controlled substances listed in this section are included in Schedule III.

A. Any material, compound, mixture, or preparation which contains any quantity of the following substances or any other substance 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.

B. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances or any other substance 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. Lysergic acid.
 5. Lysergic acid amide.
 6. Methyprylon.
 7. Phencyclidine.
 8. Sulfondiethylmethane.
 9. Sulfonethylmethane.
 10. Sulfonmethane.

C. Nalorphine.

D. 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;

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, nonnarcotic 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, nonnarcotic 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, nonnarcotic ingredients in recognized therapeutic amounts;

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

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 ingredients in recognized therapeutic amounts;

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

E. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections A. and 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 stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 2—209. Schedule IV characteristics

Schedule IV includes substances with the following characteristics:

1. Low potential for abuse relative to substances listed in Schedule III;

2. Currently accepted medical use in treatment in use in the United States; and

3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

SECTION 2—210. Schedule IV

The controlled substances listed in this section are included in Schedule IV.

A. 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. Chloral betaine.
2. Chloral hydrate.
3. Ethchlorvynol.
4. Ethinamate.
5. Meprobamate.
6. Paraldehyde.
7. Petrichloral.

B. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection A. 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.

SECTION 2—211. Schedule V characteristics

Schedule V includes substances with the following characteristics:

1. Low potential for abuse relative to the controlled substances listed in Schedule IV;

FIRST REGULA

2. Currently accepted medical use in treatment in use in the United States; and

3. Limited physical dependence or psychological dependence relative to the controlled substances listed in Schedule III.

SECTION 2—212. Schedule V

The controlled substances listed in this section are included in Schedule V.

Any compound, mixture, or preparation containing any of the following narcotic drugs, or any of their narcotic active medicinal ingredients, or any of their salts, or any other than those possessed by the manufacturer:

1. Not more than 200 milligrams of morphine per 100 milliliters or per 100 grams.

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

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

4. Not more than 2.5 milligrams of atropine sulfate per 100 milliliters or per 100 grams.

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

ARTICLE III. REGULATION OF DISPENSING, PRESCRIBING, AND THE USE OF CONTROLLED SUBSTANCES FOR SCIENTIFIC PURPOSES OF RESEARCH

SECTION 2—301. Rules and regulations

The Commissioner is authorized to make rules and regulations relating to the registration and control of the manufacture, dispensing, prescribing, administering, and use of controlled dangerous substances within the state before the office of Commissioner shall be held in accordance with the Procedures Act.

SECTION 2—302. Registration

A. Every person who manufactures, distributes, dispenses, or administers or uses for scientific purposes any controlled dangerous substance, within this state, or who produces, distributes, dispenses, or prescribes any controlled dangerous substance for the purposes of any controlled dangerous substance, shall obtain annually a registration issued by the Commissioner under this act and shall comply with the rules and regulations promulgated by the Commissioner under this act or conduct research with controlled dangerous substances to the extent authorized by the Commissioner under this act with the other provisions of this article.

B. The following persons shall not be required to obtain a registration if they lawfully possess controlled dangerous substances for the purposes of this act:

1. An agent, or an employee thereof, or a distributor, dispenser or user for scientific purposes of a controlled dangerous substance if such agent or employee is engaged in such business or employment;

2. Currently accepted medical use in treatment in the United States; and

3. Limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

SECTION 2—212. Schedule V

The controlled substances listed in this section are included in Schedule V.

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.

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 100 milligrams of opium per 100 milliliters or per 100 grams.

ARTICLE III. REGULATION OF MANUFACTURE, DISTRIBUTION, DISPENSING, PRESCRIBING, ADMINISTERING AND USING FOR SCIENTIFIC PURPOSES OF CONTROLLED DANGEROUS SUBSTANCES

SECTION 2—301. Rules and regulations

The Commissioner is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances within this state. All proceedings before the office of Commissioner shall be governed by the Administrative Procedures Act.

SECTION 2—302. Registration requirements

A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance, within this state, or who proposes to engage in the manufacture, distribution, dispensing, prescription, administering or use for scientific purposes of any controlled dangerous substance, within this state, shall obtain annually a registration issued by the Commissioner in accordance with the rules and regulations promulgated by him. Persons registered by the Commissioner under this act to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

B. The following persons shall not be required to register and may lawfully possess controlled dangerous substances under the provisions of this act:

1. An agent, or an employee thereof, of any registered manufacturer, distributor, dispenser or user for scientific purposes of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

2. Any person lawfully acting under the direction of a person authorized to administer controlled dangerous substances under Section 2—312;

3. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;

4. An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner.

C. The Commissioner may, by regulation, waive the requirement for registration of certain manufacturers, distributors, dispensers, prescribers, administrators, or users for scientific purposes if he finds it consistent with the public health and safety.

D. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, dispenses, prescribes, administers, or uses for scientific purposes controlled dangerous substances.

E. The Commissioner is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

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

G. Registrations shall be issued on January 1, 1972, and thereafter on the first day of November of each year. Registrations may be issued at other times, however, upon certification of the professional licensing board.

H. The licensing boards of all professions and occupations to which the use of controlled dangerous substances is incidental shall furnish a current list not later than December 1, 1971, and thereafter not later than the first day of October of each year of the persons holding valid licenses. All such persons shall be subject to the registration requirements of this act.

SECTION 2—303. Registration

A. The Commissioner shall register an applicant to manufacture, distribute or use for scientific purposes controlled dangerous substances included in Schedules I through V of Article II of this act unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

1. Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels, including examination of the fitness of his employees or agents to handle dangerous substances;

2. Compliance with applicable state and local law;

3. Prior conviction record of applicant under federal and/or state laws relating to the manufacture, distribution, or dispensing of such substances;

4. Furnishing by the applicant false or fraudulent material information in any application filed under this act;

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

FIRST REGULA

6. Suspension or revocation of manufacture, distribute, or dispense authorized by federal law; and

7. Such other factors as may be necessary to protect the public health and safety.

B. Registration granted under this act shall entitle a registrant to manufacture, distribute, dispense, prescribe, administer, or use for scientific purposes controlled dangerous substances specified in the registration.

C. Practitioners shall be registered to manufacture, distribute, dispense, prescribe, or use for scientific purposes substances specified in the registration and are authorized to carry on their practice in this state. A registration applicant shall be required to furnish evidence of the applicant's federal registration and shall be referred to the Medical Research Commission for review concerning the qualifications of the applicant for registration. Registration for the purpose of scientific purposes with Schedule I or II substances shall be granted only to persons qualified by the Medical Research Commission to conduct research on the ground specified in subsection A. The Commission shall have reasonable grounds to believe that the applicant will not transfer such substances or fail to maintain adequate controls against diversion from the ground specified in subsection A.

D. The Commissioner shall issue a registration to any person who owns or operates any establishment in this state where the manufacture, distribution, dispensing, prescribing, administering, or use of any controlled dangerous substance is conducted under this act and who are registered or licensed under this act shall be as follows:

Practitioners
Distributors
Manufacturers

E. Compliance by manufacturer with the Federal Controlled Substances Act (including fees) shall be deemed sufficient for purposes of this act.

SECTION 2—304. Denial, revocation

A. A registration pursuant to this act to manufacture, distribute, dispense, prescribe, administer, or use for scientific purposes a controlled dangerous substance may be denied, suspended, or revoked by the Commissioner upon a finding that the registrant:

1. Has materially falsified an application for registration or required by this act;

2. Has been convicted of a misdemeanor or felony as defined herein as a controlled dangerous substance under the laws of this state or the United States;

3. Has had his federal registration suspended or revoked by the competent federal authority and is no longer authorized to manufacture, distribute, dispense, prescribe, or use for scientific purposes controlled dangerous substances;

B. In the event the Commissioner denies, suspends, or revokes a registration granted under Section 2—303, all

6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled dangerous substances as authorized by federal law; and

7. Such other factors as may be relevant to and consistent with the public health and safety.

B. Registration granted under subsection A. of this section shall not entitle a registrant to manufacture, distribute or use for scientific purposes controlled dangerous substances in Schedule I or II other than those specified in the registration.

C. Practitioners shall be registered to dispense, prescribe, administer, or use for scientific purposes substances in Schedules II through V if they are authorized to carry on their respective activities under the laws of this state. A registration application by a practitioner who wishes to conduct research with Schedule I substances shall be accompanied by evidence of the applicant's federal registration to conduct such activity and shall be referred to the Medical Research Commission for advice. The Medical Research Commission shall promptly advise the Commissioner concerning the qualifications of each practitioner requesting such registration. Registration for the purpose of bona fide research or of use for scientific purposes with Schedule I substances by a practitioner deemed qualified by the Medical Research Commission may be denied only on a ground specified in subsection A. of Section 2—304 or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately his supply of such substances against diversion from legitimate medical or scientific use.

D. The Commissioner shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, dispensing, prescribing, administering, or use for scientific purposes of any controlled dangerous substances prior to the effective date of this act and who are registered or licensed by the state. Annual fees for registration under this act shall be as follows:

Practitioners	\$5.00
Distributors	\$25.00
Manufacturers	\$50.00

E. Compliance by manufacturers and distributors with the provisions of the Federal Controlled Substances Act respecting registration (excluding fees) shall be deemed sufficient to qualify for registration under this act.

SECTION 2—304. Denial, revocation, or suspension of registration

A. A registration pursuant to Section 2—303 to manufacture, distribute, dispense, prescribe, administer, or use for scientific purposes a controlled dangerous substance may be suspended or revoked by the Commissioner upon a finding that the registrant:

1. Has materially falsified any application filed pursuant to this act or required by this act;
2. Has been convicted of a misdemeanor relating to any substance defined herein as a controlled dangerous substance or any felony under the laws of this state or the United States; or
3. Has had his federal registration suspended or revoked by a competent federal authority and is no longer authorized by federal law to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances.

B. In the event the Commissioner suspends or revokes a registration granted under Section 2—303, all controlled dangerous substances owned

or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Commissioner be impounded and preserved. No disposition may be made of substances impounded and preserved until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the state.

C. The Bureau of Narcotics and Dangerous Drugs shall promptly be notified of all orders suspending or revoking registration and all forfeitures of controlled dangerous substances.

SECTION 2—305. Order to show cause

A. Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the Commissioner shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the appropriate person or agency at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted in accordance with the Administrative Procedures Act without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

B. The Commissioner may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 2—304, if he finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Commissioner or dissolved by a court of competent jurisdiction.

SECTION 2—306. Transmission of copies of convictions

On the conviction of any person of the violation of any provision of this act, a certified copy of the judgment of conviction shall be sent by the clerk of the court to the Commissioner and to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business.

SECTION 2—307. Records of registrants

Persons registered to manufacture, distribute, or dispense controlled dangerous substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with the additional rules the Commissioner issues.

SECTION 2—308. Order forms

Controlled dangerous substances in Schedules I and II shall be distributed only by a registrant to another registrant pursuant to an order form obtained from the United States Attorney General. Compliance with the provisions of the Federal Controlled Substances Act respecting order forms shall be deemed compliance with this section. This section shall not apply to dispensing as defined by this act, nor to distribution otherwise authorized by this act.

SECTION 2—309. Prescriptions

A. Except when administered directly by a pharmacist, to an ultimate user, not included in Schedule II, which is a prescription regulation promulgated by the Board, out the written prescription of a practitioner in emergency situations, as prescribed by the Board, such drug may be dispensed upon oral prescription writing and filed by the pharmacist in accordance with the regulations and regulations of the Commissioner in conformity with the requirements of the Board for a Schedule II substance.

B. Except when administered directly by a pharmacist, to an ultimate user, not included in Schedule III or IV which is a prescription regulation promulgated by the Board, such drug may be dispensed without a written or oral prescription, but may be refilled more than six (6) times or be refilled more than five times after renewed by the practitioner. No prescription for a substance which is a narcotic drug may be refilled more than six (6) times.

C. No controlled dangerous substance shall be distributed or dispensed other than as prescribed for its intended purpose.

D. Except when administered directly by a pharmacist, to an ultimate user, time-release (known as paregoric) may not be dispensed without a prescription. The refilling of a prescription for a time-release drug is prohibited unless permission is granted by the Board.

E. Whenever it appears to the Commissioner that a prescription drug under the Board of Pharmacy should be suspended, the Board should be so advised, he shall so advise the Board of Pharmacy available data relevant thereto.

F. "Prescription," as used hereinafter, means a prescription for a particular patient, which specifies the name and address of the patient; if the drug is prescribed for an animal, the species of the animal; if the drug is a controlled dangerous substance, and, if written, the signature of the practitioner.

SECTION 2—310. Samples

No person shall distribute samples of controlled dangerous substances to a practitioner without simultaneously providing the practitioner a specific, written list of the samples and control of which shall be provided by the Commissioner.

SECTION 2—311. Sale of certain

A. The legal owner of any stock of controlled dangerous substances, manufacturer, wholesaler, or pharmacist but not a registrant, shall comply with Section 2—308.

B. A pharmacist, only upon an order form obtained from the United States Attorney General, may sell to a physician, dentist, or veterinarian, a quantity exceeding thirty milliliters at any one time.

OKLAHOMA
SESSION LAWS
1971

THIRTY-THIRD LEGISLATURE

FIRST REGULAR SESSION

Convened January 5, 1971

Adjourned Sine Die June 11, 1971

EXTRAORDINARY SESSION

Convened July 1, 1971

Adjourned Sine Die July 1, 1971

DAVID HALL, GOVERNOR

FINIS W. SMITH, President Pro Tempore of the Senate

REX PRIVETT, Speaker of the House of Representatives

ST. PAUL, MINN.

WEST PUBLISHING CO.

1971

SECTION 2—309. Prescriptions

A. Except when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, may be dispensed without the written prescription of a practitioner; provided, that, in emergency situations, as prescribed by the Board of Pharmacy by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist in a manner to be prescribed by rules and regulations of the Commissioner. Prescriptions shall be retained in conformity with the requirements of Section 2—307 of this act. No prescription for a Schedule II substance may be refilled.

B. Except when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III or IV which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six (6) months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner. No prescription for a Schedule III or IV substance which is a narcotic drug may be refilled.

C. No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a legitimate medical or scientific purpose.

D. Except when administered directly by a practitioner, other than a pharmacist, to an ultimate user, tincture opium camphorated (commonly known as paregoric) may not be dispensed without a written or oral prescription. The refilling of a prescription for paregoric shall be unlawful unless permission is granted by the prescriber, either written or oral.

E. Whenever it appears to the Commissioner that a drug not considered to be a prescription drug under existing state law or regulation of the Board of Pharmacy should be so considered because of its abuse potential, he shall so advise the Board of Pharmacy and furnish to him all available data relevant thereto.

F. "Prescription," as used herein, means a written or oral order by a practitioner to a pharmacist for a controlled dangerous substance for a particular patient, which specifies the date of its issue, and the full name and address of the patient; if the controlled dangerous substance is prescribed for an animal, the species of the animal; the name and quantity of the controlled dangerous substance prescribed; the directions for use; and, if written, the signature of the practitioner.

SECTION 2—310. Samples

No person shall distribute samples of controlled dangerous substances to a practitioner without simultaneously preparing and leaving with that practitioner a specific, written list of the items so distributed, the form and control of which shall be prescribed by rules promulgated by the Commissioner.

SECTION 2—311. Sale of certain substances

A. The legal owner of any stock of narcotic drugs, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or pharmacist but only on an order form as provided in Section 2—308.

B. A pharmacist, only upon an order form as provided in Section 2—308, may sell to a physician, dentist, or veterinarian, in quantities not exceeding thirty milliliters at any one time, aqueous or oleaginous solu-

Ch. 119 LAWS THIRTY-THIRD LEGISLATURE

tions of which the content of narcotic drugs does not exceed a proportion greater than twenty percent (20%) of the complete solution, to be used for medical purposes.

SECTION 2—312. Physicians, podiatrists, dentists and veterinarians—Authority to prescribe, administer or dispense

A. A physician, podiatrist or a dentist who has complied with the registration requirements of this act in good faith and in the course of his professional practice only may prescribe, administer, and dispense controlled dangerous substances, or he may cause the same to be administered by medical or paramedical personnel acting under his direction and supervision.

B. A veterinarian who has complied with the registration requirements of this act in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled dangerous substances and he may cause them to be administered by an assistant or orderly under his direction and supervision.

SECTION 2—313. Excepted preparations—Conditions of exemption

A. Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

1. Prescribing, administering, dispensing, or selling at retail not more than one of any of the following medicinal preparations that contain in thirty (30) milliliters or, if a solid or semisolid preparation, in one (1) avoirdupois ounce:

- a. not more than one hundred sixty (160) milligrams of opium;
- b. not more than twenty (20) milligrams of morphine or of any of its salts; or
- c. not more than eighty (80) milligrams of codeine or any of its salts.

2. Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as to prevent their being readily extracted from such liniments, ointments, or preparations, except that this act shall apply to all liniments, ointments and other preparations that contain coca leaves in any quantity or combination.

B. The exemptions authorized by subparagraphs 1. and 2. of subsection A. of this section shall be subject to all of the conditions set out in this subsection. The exemptions authorized by subparagraph 3. of subsection A. of this section shall not, however, be subject to the conditions set out in subparagraphs 1., 2. or 3. of this subsection, but shall be subject to subparagraph 4. of this subsection.

1. No person shall prescribe, administer, dispense, or distribute under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing or distributing will provide the persons to whom or for whose use, or the owner of the animal for the use of which such preparation is prescribed, administered, dispensed, or distributed, within any forty-eight (48) consecutive hours, with more than three hundred twenty (320) milligrams of opium, or more than forty (40) milligrams of morphine or any of its salts, or more than one hundred sixty (160) milligrams of codeine or any of its salts, or will provide such person or the owner of such animal, within forty-eight (48) consecutive hours, with more than one preparation exempted by this section from the operation of this act.

FIRST REGUL

2. This act shall not apply to which contains not more than of milliliters.

3. The medicinal preparation preparation susceptible of external dispensed, or distributed, shall contain in it, some drug or drugs contained than those possessed by the narcotic be prescribed, administered, dispensed a medicine, and not for the purpose

4. The provisions of Section preparations referred to in subsection section shall be construed to limit drug that may be prescribed, administered, dispensed, or distributed any person or for the use of any administered, dispensed, or distributed provisions of this act.

SECTION 2—314. Labels

A. Whenever a manufacturer of a dangerous substance in a container affix to each individual container label showing in legible English and the quantity, kind, and form

B. Whenever a pharmacist dispenses a substance, he shall affix to each immediate container is dispensed the prescription number, name, the name of the doctor, which he is lawfully acting; or, the owner of the animal and the

C. Whenever a practitioner dispenses a substance, he shall affix to each immediate container is dispensed a label showing date of state registration number, name of animal, the name of the owner of

D. No person except a pharmacist shall alter, deface, or remove

ARTICLE IV. OFFENSES

SECTION 2—401. Prohibited

A. Except as authorized by this section:

1. To manufacture, distribute, or dispense a controlled dangerous substance

2. To create, distribute, or possess a controlled dangerous substance

B. Any person who violates this

1. A substance classified in Schedule I or II, or lysergic acid diethylamide (LSD), shall be sentenced to a term of imprisonment not more than twenty (20) years and a fine of not more than ten thousand Dollars (\$20,000.00). Such provisions for suspended sentence

2. Any other controlled dangerous substance classified in Schedule I, II, III, or IV is guilty of a felony if he is sentenced to a term of imprisonment for not less than

2. This act shall not apply to any compound, mixture or preparation which contains not more than one drachm of paregoric per thirty (30) milliliters.

3. The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or distributed, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed, and distributed in good faith as a medicine, and not for the purpose of evading the provisions of this act.

4. The provisions of Section 2—314 of this act shall apply to the preparations referred to in subsection A. of this section. Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or distributed to any person or for the use of any person or animal when it is prescribed, administered, dispensed, or distributed in compliance with the general provisions of this act.

SECTION 2—314. Labels

A. Whenever a manufacturer or wholesaler distributes a controlled dangerous substance in a container prepared by him, he shall securely affix to each individual container in which that substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of substance contained therein.

B. Whenever a pharmacist dispenses any controlled dangerous substance, he shall affix to each immediate container in which such substance is dispensed the prescription number, the date dispensed, the patient's name, the name of the doctor, name and address of the pharmacy for which he is lawfully acting; or, if the patient is an animal, the name of the owner of the animal and the words "for veterinary use only".

C. Whenever a practitioner dispenses any controlled dangerous substance, he shall affix to each immediate container in which such substance is dispensed a label showing date dispensed, his name, his address, his state registration number, name of the patient, or, if the patient is an animal, the name of the owner of the animal.

D. No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label so affixed.

ARTICLE IV. OFFENSES AND PENALTIES

SECTION 2—401. Prohibited acts A—Penalties

A. Except as authorized by this act, it shall be unlawful for any person:

1. To manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance;
2. To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance.

B. Any person who violates this section with respect to:

1. A substance classified in Schedules I or II which is a narcotic drug or lysergic acid diethylamide (LSD) is guilty of a felony and shall be sentenced to a term of imprisonment for not less than five (5) years nor more than twenty (20) years and a fine of not more than Twenty Thousand Dollars (\$20,000.00). Such sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation.
2. Any other controlled dangerous substance classified in Schedule I, II, III, or IV is guilty of a felony and shall be sentenced to a term of imprisonment for not less than two (2) years nor more than ten (10)

years and a fine of not more than Five Thousand Dollars (\$5,000.00). Such sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation.

3. A substance classified in Schedule V is guilty of a felony and shall be sentenced to a term of imprisonment for not more than five (5) years and a fine of not more than One Thousand Dollars (\$1,000.00).

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation.

D. Any person who is at least twenty-one (21) years of age and who violates this section by distributing a controlled dangerous substance to a person under eighteen (18) years of age is punishable by twice the fine and by twice the imprisonment otherwise authorized.

SECTION 2—402. Prohibited acts B—Penalties

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

B. Any person who violates this section with respect to:

1. Any Schedule I or II substance except marihuana is guilty of a felony punishable by imprisonment for not less than two (2) years nor more than ten (10) years. A second or subsequent violation of this section with respect to any Schedule I or II substance except marihuana is a felony punishable by imprisonment for not less than four (4) years nor more than twenty (20) years.

2. Any Schedule III, IV or V substance or marihuana is guilty of a misdemeanor punishable by confinement for not more than one (1) year. A second or subsequent violation of this section with respect to any Schedule III, IV or V substance or marihuana is a felony punishable by imprisonment for not less than two (2) nor more than ten (10) years.

SECTION 2—403. Prohibited acts C—Penalties

Any person found guilty of larceny, burglary or theft of controlled dangerous substances is guilty of a felony punishable by imprisonment for a period not to exceed ten (10) years. A second or subsequent offense under this section is a felony punishable by imprisonment for not less than four (4) nor more than twenty (20) years. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation.

SECTION 2—404. Prohibited acts D—Penalties

A. It shall be unlawful for any person:

1. Who is subject to the requirements of Article III of this act to distribute or dispense a controlled dangerous substance in violation of Section 2—308;

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

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

4. To refuse or fail to make, keep, order form, statement, invoice, or invoice;

5. To refuse any entry into any this act; or,

6. To keep or maintain any store building, vehicle, boat, aircraft, or a to by persons using controlled dangerous act for the purpose of using such keeping or selling of the same in violation.

B. Any person who violates this of not more than One Thousand Dollars that the violation is prosecuted by an inf that the violation was committed trier of fact specifically finds that th or intentionally, such person is guilty ment for not more than five (5) ye Thousand Dollars (\$10,000.00), exc tion it shall be subject to a civil pe Thousand Dollars (\$100,000.00).

C. Any person convicted of a s section is punishable by a term of i thorized and by twice the fine otherw

SECTION 2—405. Prohibited acts

A. No person shall use tincture rated, or any derivative thereof, by or without a medical prescription th

B. No person shall have in his paraphernalia used by abusers of administering a controlled danger medical or other lawful need requ holding an unrevoked license in t medicine, nursing, optometry, oste macy.

C. Any person who violates th punishable by confinement for not not more than One Thousand Dolla

SECTION 2—406. Prohibited acts

A. It shall be unlawful for any

1. To distribute, other than by by this act, a controlled dangerous II, in the course of his legitimate form as required by Section 2—308

2. To use in the course of the trolled dangerous substance a regis voked, suspended or issued to anoth

3. To acquire or obtain posse stance by misrepresentation, fraud

4. To furnish false or fraudulent any material information from, any required to be kept or filed under kept by this act;

5. To make, distribute, or pos other thing designed to print, impr name, or other identifying mark,

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

5. To refuse any entry into any premises or inspection authorized by this act; or,

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

B. Any person who violates this section is punishable by a civil fine of not more than One Thousand Dollars (\$1,000.00); provided, that, if the violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person is guilty of a felony punishable by imprisonment for not more than five (5) years, and a fine of not more than Ten Thousand Dollars (\$10,000.00), except that if such person is a corporation it shall be subject to a civil penalty of not more than One Hundred Thousand Dollars (\$100,000.00).

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized.

SECTION 2—405. Prohibited acts E—Penalties

A. No person shall use tincture of opium, tincture of opium camphorated, or any derivative thereof, by the hypodermic method, either with or without a medical prescription therefor.

B. No person shall have in his possession, or immediate control, any paraphernalia used by abusers of controlled dangerous substances for administering a controlled dangerous substance who cannot show any medical or other lawful need requiring the same, except those persons holding an unrevoked license in the professions of podiatry, dentistry, medicine, nursing, optometry, osteopathy, veterinary medicine or pharmacy.

C. Any person who violates this section is guilty of a misdemeanor punishable by confinement for not more than one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both.

SECTION 2—406. Prohibited acts F—Penalties

A. It shall be unlawful for any registrant knowingly or intentionally:

1. To distribute, other than by dispensing or as otherwise authorized by this act, a controlled dangerous substance classified in Schedules I or II, in the course of his legitimate business, except pursuant to an order form as required by Section 2—308 of this act;

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

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

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

5. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any

likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.

B. Any person who violates this section is guilty of a felony punishable by imprisonment for not more than twenty (20) years or a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both.

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

SECTION 2—407. Prohibited acts G—Penalties

A. No person shall obtain or attempt to obtain a controlled dangerous substance or procure or attempt to procure the administration of a controlled dangerous substance:

1. By fraud, deceit, misrepresentation, or subterfuge;
2. By the forgery or alteration of a prescription or of any written order;
3. By the concealment of a material fact; or
4. By the use of a false name or the giving of a false address.

B. Information communicated to a physician in an effort unlawfully to procure a controlled dangerous substance, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

C. Any person who violates this section is guilty of a felony punishable by imprisonment for not more than ten (10) years. A second or subsequent offense under this section is a felony punishable by imprisonment for not less than four (4) nor more than twenty (20) years.

D. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

SECTION 2—408. Endeavor and conspiracy

Any person who attempts, endeavors, or conspires to commit any offense defined in this act shall be subject to the penalty prescribed for the offense, the commission of which was the object of the endeavor or conspiracy.

SECTION 2—409. Additional penalties

Any penalty imposed for violation of this article shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

SECTION 2—410. Conditional discharge for possession as first offense

Whenever any person who has not previously been convicted of any offense under this act or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled dangerous substance under Section 2—402, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported or state-approved facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and

proceed as otherwise provided. Upon conditions, the court shall discharge such person against him. Discharge and dismissal shall constitute a court adjudication of guilt and shall not constitute a conviction for purposes of this section or for purposes imposed by law upon conviction of a crime under this section may occur only once.

Any expunged arrest or conviction shall not constitute an arrest or conviction for purposes of this act, statute, regulation, license, question, or purpose; provided, that, any such plea shall not constitute a conviction of the offense under any other criminal statute under which the offense is relevant.

SECTION 2—411. General penalty

Any person who violates any provision of this act is guilty of a crime and is punishable by imprisonment for not more than one (1) year or a fine of not more than Five Hundred Dollars (\$500.00), or both.

SECTION 2—412. Second or subsequent offense

An offense shall be considered a second or subsequent offense under this act, if, prior to his conviction of this act, he has been convicted of an offense under a statute of the United States, or of any state, or of marihuana, depressant, stimulant, or any other controlled dangerous substance under this act.

SECTION 2—413. Bar to prosecution

If a violation of this act is a violation of the laws of another state, a conviction or acquittal in another state for the same act is a bar to prosecution under this act.

ARTICLE V. ENFORCEMENT AND PROVISIONS

SECTION 2—501. Powers of peace officers

Any peace officer may:

1. Carry firearms;
2. Execute search warrants, subpoenas, or summonses issued under the authority of this act;
3. Make an arrest without warrant if the officer has cause for believing that the person has committed a violation of Section 2—402;
4. Make seizures of property prohibited by this act;
5. Perform such other lawful duties as may be provided in the provisions of this act.

SECTION 2—502. Inspections

A. Prescriptions, orders, and other documents for controlled dangerous substances specified in this act shall be subject to inspection by any officer specifically designated or assigned by the court whose duty it is to enforce the laws relating to controlled dangerous substances. No officer shall inspect any such prescription, order, or document, except in connection with a

proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person.

Any expunged arrest or conviction shall not thereafter be regarded as an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire or any other public or private purpose; provided, that, any such plea of guilty or finding of guilt shall constitute a conviction of the offense for the purpose of this act or any other criminal statute under which the existence of a prior conviction is relevant.

SECTION 2—411. General penalty clause

Any person who violates any provision of this act not subject to a specific penalty provision is guilty of a misdemeanor punishable by confinement for not more than one (1) year, or by a fine of not more than Five Hundred Dollars (\$500.00), or both.

SECTION 2—412. Second or subsequent offenses

An offense shall be considered a second or subsequent offense under this act, if, prior to his conviction of the offense, the offender has at any time been convicted of an offense or offenses under this act, under any statute of the United States, or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs, as defined by this act.

SECTION 2—413. Bar to prosecution

If a violation of this act is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

ARTICLE V. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

SECTION 2—501. Powers of enforcement personnel

Any peace officer may:

1. Carry firearms;
2. Execute search warrants, arrest warrants, subpoenas, and summonses issued under the authority of this state;
3. Make an arrest without warrant of any person he has probable cause for believing has committed any felony under this act or a violation of Section 2—402;
4. Make seizures of property pursuant to the provisions of this act; and
5. Perform such other lawful duties as are required to carry out the provisions of this act.

SECTION 2—502. Inspections

A. Prescriptions, orders, and records, required by this act, and stock of substances specified in this act shall be open for inspection only to specifically designated or assigned state, county, and municipal officers, whose duty it is to enforce the laws of this state relating to controlled dangerous substances. No officer having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or

owner or other person in charge of such conveyance was a consenting party or privy to a violation of this act; and

- b. no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state.

5. All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

SECTION 2—504. Seizure of property

Any peace officer of this state shall seize property subject to forfeiture under this act when:

- 1. The seizure is incident to arrest or search warrant;
- 2. The property has been the subject of a prior judgment in favor of the state in an injunction or forfeiture proceeding under this act;
- 3. Probable cause exists to believe the property is dangerous to health or safety; or
- 4. Probable cause exists to believe the property has been used, or will be used, in violation of this act.

SECTION 2—505. Summary forfeiture of certain substances

All controlled substances in Schedule I of this act and all controlled substances in Schedules II, III, IV, and V that are not in properly labeled containers in accordance with this act that are possessed, transferred, sold, or offered for sale in violation of this act are deemed contraband and shall be seized and summarily forfeited.

SECTION 2—506. Seizure and forfeiture of certain vehicles

A. Any peace officer of this state shall seize any vehicle, airplane, or vessel, which is used, or intended for use, to unlawfully transport any property described in subsection 1. or 2. of Section 2—503, or in which any property described in subsection 1. or 2. of Section 2—503 is unlawfully kept, deposited or concealed, or in which any property described in subsection 1. or 2. of Section 2—503 is unlawfully possessed by an occupant thereof; such vehicles shall be held as evidence until a forfeiture has been declared or a release ordered.

B. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county wherein such vehicle, airplane, or vessel is seized and shall be given all owners and parties in interest.

C. Notice shall be given according to one of the following methods:

1. Upon each owner or party in interest whose right, title, or interest is of record in the Oklahoma Tax Commission, by mailing a copy of the notice by certified mail to the address as given upon the records of the Oklahoma Tax Commission.

2. Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address.

3. Upon all other owners, whose addresses are unknown, but who are believed to have an interest in the vehicle, airplane, or vessel, by one publication in a newspaper of general circulation in the county where the seizure was made.

D. Within twenty (20) days after the mailing or publication of the notice, the owner of the vehicle, airplane, or vessel and any other party in interest or claimant may file a verified answer and claim to the vehicle, airplane, or vessel described in the notice of seizure and of the intended forfeiture proceeding.

E. If at the end of twenty (20) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the vehicle, airplane, or vessel forfeited to the state, if such fact is proved.

F. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

G. At the hearing any owner who has a verified answer on file may show by competent evidence that the vehicle, airplane, or vessel was not used to unlawfully transport any property described in subsection 1. or 2. of Section 2—503, or that any property described in subsection 1. or 2. of Section 2—503 was not lawfully possessed by an occupant of the vehicle, airplane, or vessel.

H. The claimant of any right, title, or interest in the vehicle, airplane, or vessel may prove his lien, mortgage, or conditional sales contract to be bona fide and that his right, title, or interest was created without any knowledge or reason to believe that the vehicle, airplane, or vessel was being, or was to be, used for the purpose charged.

I. In the event of such proof, the court shall order the vehicle, airplane, or vessel released to the bona fide or innocent owner, lien holder, mortgagee, or vendor if the amount due him is equal to, or in excess of, the value of the vehicle, airplane, or vessel as of the date of the seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser.

J. If the amount due to such person is less than the value of the vehicle, airplane, or vessel, or if no bona fide claim is established, the vehicle, airplane, or vessel shall be forfeited to the state and the vehicle, airplane, or vessel shall be sold under judgment of the court, as on sale upon execution.

K. Property taken or detained under this section shall not be releasable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof.

L. The proceeds of the sale of any vehicle, airplane, or vessel shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the vehicle, airplane, or vessel, if any, up to the amount of his interest in the vehicle, airplane, or vessel, when the court declaring the forfeiture orders a distribution to such person;

2. To the payment of the cost of the forfeiture proceedings and the actual expenses of preserving the property; and

3. The balance in the general fund of the county.

M. Whenever any vehicle, airplane, or vessel is forfeited under this act, the District Court of Jurisdiction may order that the vehicle, airplane, or vessel seized may be retained by the state, county, or city law enforcement agency which seized the vehicle, airplane, or vessel for its official use.

N. If the court finds that the vehicle, airplane, or vessel was not used in violation of this act, the court shall order the vehicle, airplane, or vessel released to the owner as his right, title, or interest appears on record in the Oklahoma Tax Commission as of the seizure.

SECTION 2—507. Itemization

Any peace officer of this state in subparagraphs 1. and 2. of Section 2—503 shall have a physical inventory to be made and maintained. If such physical inventories have been exhausted unless such inventories are in the custody of a court or state or federal agency, such inventories shall be surrendered by the peace officer having custody of the same to the peace officer having custody of the same to be destroyed as provided in Section 2—503. Such destruction shall be accompanied with a written report filed in the Oklahoma State Bureau of Investigation.

SECTION 2—508. Destructive

All property described in subsection 1. of Section 2—503 which is seized or surrendered to the state shall be destroyed after all legal actions shall be done under the supervision of the Oklahoma State Bureau of Investigation, the Oklahoma State Health Department, the Oklahoma State Bureau of Narcotics and Dangerous Drugs, and the Oklahoma State Health Department; destruction of such property, and an official report of the location of destruction shall be filed in the Oklahoma State Bureau of Investigation, the Oklahoma State Health Department, the Oklahoma State Bureau of Narcotics and Dangerous Drugs, and the Oklahoma State Health Department.

SECTION 2—509. Eradication

All species of plants from Schedules I and II may be derived from the land and welfare of the public, and it is hereby declared the policy of this act to eradicate these species of plants.

1. It shall be unlawful for any person to knowingly permit the cultivation of any species of such plants, on any land, and it is hereby declared the policy of this act to eradicate such plants found growing on land.

2. Whenever any peace officer of this state shall find that any species of any such plants are growing on any lands in the State of Oklahoma, the peace officer of the county wherein such plants are found shall, within ten (10) days of receipt of such notice, the peace officer or person in possession of such lands shall report to the peace officer found growing on the said lands within fifteen (15) days; when reporting peace officer shall cause the eradication of the aforesaid lands, and if any such lands are not eradicated, the commissioners shall cause the same to be eradicated.

3. Whenever any such plants are found growing on any lands as provided herein, the labor shall be furnished by the county wherein the work was performed in all manner and respects as a public work.

4. Knowingly violating the provisions of this act is hereby declared, as to the lands, to be a felony and punishable as such.

SECTION 2—507. Itemization and submission for destruction

Any peace officer of this state seizing any of the property described in subparagraphs 1. and 2. of Section 2—503 shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency or person having custody of the same to the Oklahoma State Bureau of Investigation to be destroyed as provided in Section 2—508. The property shall be accompanied with a written inventory on forms to be furnished by the Oklahoma State Bureau of Investigation.

SECTION 2—508. Destruction of seized property

All property described in subsections 1. and 2., of Section 2—503, which is seized or surrendered under the provisions of this act shall be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the Chief Chemist of Oklahoma State Bureau of Investigation, a representative of the Federal Bureau of Narcotics and Dangerous Drugs, and a representative of the Oklahoma State Health Department; destruction shall be done by fire and burying of such property, and an official record listing the property destroyed and the location of destruction shall be kept on file at the office of the Oklahoma State Bureau of Investigation with copies to be sent to the Oklahoma State Health Department and the District Office of the Federal Bureau of Narcotics and Dangerous Drugs located in Oklahoma City, Oklahoma.

SECTION 2—509. Eradication

All species of plants from which controlled dangerous substances in Schedules I and II may be derived are hereby declared inimical to health and welfare of the public, and the intent of the Legislature is to control and eradicate these species of the plants in the State of Oklahoma.

1. It shall be unlawful for any person to cultivate or produce, or to knowingly permit the cultivation, production, or wild growing of any species of such plants, on any lands owned or controlled by such person, and it is hereby declared the duty of every such person to destroy all such plants found growing on lands owned or controlled by him.

2. Whenever any peace officer of the state shall receive information that any species of any such plants has been found growing on any private lands in the State of Oklahoma, he shall notify the county commissioners of the county wherein such plants are found growing; within five (5) days of receipt of such notice, the county commissioners shall notify the owner or person in possession of such lands that such plants have been found growing on the said lands and that the same must be destroyed within fifteen (15) days; when the fifteen (15) days have elapsed, the reporting peace officer shall cause an investigation to be made of the aforesaid lands, and if any such plants be found growing thereon, the commissioners shall cause the same to be destroyed by cutting and burning the same.

3. Whenever any such plants are destroyed by order of the commissioners as provided herein, the cost of the same shall, if the work or labor be furnished by the commissioners, be taxed against the lands whereon the work was performed, and shall be a lien upon such land in all manner and respects as a lien of judgment.

4. Knowingly violating the provisions of subparagraph 1. of this section is hereby declared, as to the owner, or person in possession of such lands, to be a felony and punishable as such by a fine of not to exceed

Fifty Thousand Dollars (\$50,000.00) and imprisonment in the State Penitentiary for not more than ten (10) years. Any person convicted of a second or subsequent violation of subparagraph 1. is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized.

5. It shall be the duty of any peace officer of the State of Oklahoma who receives information of such plants growing in the State of Oklahoma to make notice, in writing, to the Oklahoma State Bureau of Investigation and the future destruction of the annual growth of such plants shall be supervised by the Oklahoma State Bureau of Investigation.

SECTION 2—510. Defenses—Descriptions

A. An exemption or exception set forth in this act shall constitute an affirmative defense. Such affirmative defense shall be in accordance with the presentation of an alibi defense prescribed in Section 585 of Title 22 of the Oklahoma Statutes.

B. In any prosecution for a violation of any of the provisions of this act relating to a controlled dangerous substance named in any of the Schedules set out in the act, it shall be sufficient in any indictment or information to allege a general description of the controlled dangerous substance and the Schedule wherein listed without other specific description. Upon a trial under such indictment or information, it shall be sufficient to prove that the controlled dangerous substance is one listed within a particular Schedule without further identification.

SECTION 2—511. Judicial review

Judicial review of final determinations, findings, and conclusions of the Commissioner under this act shall be in the manner provided by the Administrative Procedures Act. A revocation or suspension of a registration based on the revocation or suspension of a professional or occupational license shall be final and conclusive where judicial review is available with respect to the revocation or suspension of the professional or occupational license.

ARTICLE VI. MISCELLANEOUS

SECTION 2—601. Pending proceedings

A. Prosecutions for any violation of law occurring prior to the effective date of this act shall not be affected by these repealers or amendments, or abated by reason thereof.

B. Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act shall not be affected by these repealers or amendments, or abated by reason thereof.

C. All administrative proceedings pending before any agency relating to any controlled dangerous substance on the effective date of this enactment shall be continued and brought to final determination in accord with laws and regulations in effect prior to the date of this enactment.

D. The provisions of this act shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings, and investigations which occur following its effective date.

SECTION 2—602. Continuation of regulations

Any orders, rules, or regulations which have been promulgated under any law affected by this act and which are in effect on the day preceding the effective date of this act shall continue in effect until modified, superseded or repealed.

SECTION 2—603. Uniformity of
This act shall be so construed as to make uniform the law of those states.

SECTION 2—604. Short title
This act may be cited as the Uniform Act.

SECTION 2—605. Codification
This act shall be codified as Section 63 of the Oklahoma Statutes.

SECTION 2—606. Severability
The provisions of this act are severable and if any provision hereof shall be held void the decision shall not affect or impair any of the remaining provisions.

SECTION 2—607. Repealers
Chapter 10, Title 63, O.S.1961, as amended, is hereby repealed except with respect to penalties which were incurred before the operative date of this section.

SECTION 2—608. Headings
Article and section headings contained herein shall not be a part of the interpretation of the meaning or intent of this act.

SECTION 2—609. Operative date
All sections of this act other than Section 2—107, shall become operative September 1, 1971, however, by Executive Order, postponed to the effective date of this act other than Article I, Section 2, not later than January 1, 1972.

SECTION 2—610. Emergency
It being immediately necessary for the health and safety, an emergency is hereby declared in the provisions hereof this act shall take effect upon passage and approval.

Approved April 28, 1971. Emergency

SECTION 2—603. Uniformity of interpretation

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 2—604. Short title

This act may be cited as the Uniform Controlled Dangerous Substances Act.

SECTION 2—605. Codification

This act shall be codified as Sections 2—101 through 2—609 of Title 63 of the Oklahoma Statutes.

SECTION 2—606. Severability

The provisions of this act are severable and if any part or provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

SECTION 2—607. Repealers

Chapter 10, Title 63, O.S.1961, as amended, and 21 O.S.1961, § 1725, are hereby repealed except with respect to rights and duties which matured, penalties which were incurred, and proceedings which were begun before the operative date of this section.

SECTION 2—608. Headings

Article and section headings contained in this act shall not affect the interpretation of the meaning or intent of any provision of this act.

SECTION 2—609. Operative date

All sections of this act other than Article I, Sections 2—102 through 2—107, shall become operative September 1, 1971. The Governor may, however, by Executive Order, postpone the operative date of all sections of this act other than Article I, Sections 2—102 through 2—107, to a date not later than January 1, 1972.

SECTION 2—610. Emergency

It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Approved April 28, 1971. Emergency.